

EXHIBIT A



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VIA E-Mail

Hon. Freda L. Wolfson, U.S.D.J. (ret.)
Lowenstein Sandler LLP
One Lowenstein Drive
Roseland, New Jersey 07068

**Re: *Johnson & Johnson Health Care Systems Inc. v. Save On SP, LLC,
Express Scripts, Inc., and Accredo Health Group, Inc.***
No. 2:22-cv-02632 (JKS) (CLW)

Dear Judge Wolfson:

Defendant Save On SP, LLC (“SaveOn”) moves to compel Johnson & Johnson Health Care Systems Inc. (with its affiliates, “J&J”) to add eight custodians who worked at TrialCard Inc. (“TrialCard”)—Rick Ford, Jason Zemcik, Tommy Gooch, Lynsi Newton, April Harrison, Amber Maldonado, Tony McInnis, and Cosimo Cambi (the “Proposed TrialCard Custodians”)—and to run the eight search terms in Appendix 1 over their documents. SaveOn also moves to compel J&J to run five of those terms over the documents of the four existing TrialCard custodians—Sini Abraham, Paul Esterline, Rick Fry, and Holly Weischedel (the “Existing TrialCard Custodians”).

Background

SaveOn first asked TrialCard to add the Proposed and Existing TrialCard Custodians a year and a half ago.¹ In mid-2023, TrialCard agreed to add the four Existing TrialCard Custodians and to run seven search terms, most relating to SaveOn's name and CarePath's terms and conditions ("T&Cs"), over their files from April 1, 2016 to July 1, 2022. *See* Ex. 2 (Aug. 3, 2023 Ltr.).²

J&J then admitted that it had hired TrialCard to perform benefits investigations to determine if CarePath patients were on accumulators, maximizers, or SaveOn-advised plans. Dkt. 163 at 1. SaveOn also uncovered the existence of J&J's CAP program. *See, e.g.*, Oct. 30, 2023 Tr. at 66:16-25, 72:13-75:16, 90:11-12. J&J's documents showed that TrialCard—and the Proposed TrialCard Custodians in particular—played a central role in all aspects of that program, from its creation and original implementation to later efforts to assess its efficacy and make improvements.

SaveOn thus again asked TrialCard to add seven of the eight Proposed TrialCard Custodians in December 2023. *See* Ex. 4 at 1 (Dec. 8, 2023 Ltr.) (Cambi, Ford, Gooch, Harrison, Maldonado, Newton, and Zemcik).³ TrialCard and J&J, then represented by the same counsel, refused. *See* Dkt. 312 at 7-9 (SaveOn's Apr. 19, 2024 Mot. to Compel).

¹ SaveOn proposed all but one of the Proposed and Existing TrialCard Custodians to TrialCard on July 26, 2023. *See, e.g.*, Ex. 1 at 3-5 (July 26, 2023 Ltr.). TrialCard agreed to add Abraham, Weischedel, Esterline, and Fry as custodians on August 3, 2023, *see* Ex. 2 at 2 (Aug. 3, 2023 Ltr.), but refused to add any others.

² Those are the same search terms that SaveOn requested J&J run for the refresh period once Your Honor found that J&J had legal control of TrialCard's documents. *See* Ex. 3 (May 24, 2024 Ltr.).

³ SaveOn renewed its request for Tony McInnis as a custodian in June 2024 because newly produced documents regarding J&J's CAP appeals process indicated that [REDACTED]

[REDACTED]. *See, e.g.*, Ex. 5 at -993-96 (JJHCS_00258993).

In April 2024, SaveOn moved to compel J&J to produce documents from TrialCard for the “refresh” period of July 1, 2022 to November 7, 2023 and to produce documents regarding J&J’s CAP program. Dkt. 312. Your Honor granted SaveOn’s motion, May 23, 2024 Hr’g Tr. at 53:5-10, holding that J&J had “legal control” over TrialCard’s documents regarding its work for J&J and that the documents sought were “relevant” because they “relate to the creation and implementation of the CAP Program, and benefits investigations into whether patients were on SaveOnSP programs.” Dkt. 307 at 10. The next day, SaveOn proposed search terms to capture responsive documents from the Existing and Proposed TrialCard Custodians. Ex. 3 at 3-5 (May 24, 2024 Ltr.).

Although Your Honor pushed the parties to resolve the TrialCard production “sooner, rather than later,” July 15, 2024 Tr. at 135:20-24, J&J failed to provide accurate hit counts for SaveOn’s proposed searches for five months. *See* Ex. 6 at 2-4 (SaveOn’s Oct. 7, 2024 Ltr. to Judge Wolfson). J&J produced accurate hit counts only after SaveOn again moved to compel. *See* Dkt. 425; Ex. 7 (Nov. 4, 2024 Ltr.) (providing hit counts in response to SaveOn’s May 24, 2024 Ltr.).

Since then, J&J has refused to run any of SaveOn’s proposed search terms over TrialCard’s documents. It does not contest that the Proposed and Existing TrialCard Custodians performed relevant work or that SaveOn’s proposed search terms are targeted to that relevant work. J&J objects only that the total hit counts are too high. *See, e.g.*, Ex. 7 (Nov. 4, 2024 Ltr.); Ex. 8 (Nov. 19, 2024 Ltr.); Ex. 9 (Dec. 13, 2024 Ltr.).

In response to J&J’s burden concerns, SaveOn has narrowed its requests three times. First, SaveOn agreed that J&J could use a collection search term that dramatically narrows the universe of documents it collects from TrialCard to only those containing J&J’s name, the names of the

Janssen drugs at issue, or terms regarding the CAP program.⁴ *See* Ex. 11 (Sept. 12, 2024 Ltr.); Ex. 10 (Sept. 20, 2024 Ltr.). Second, SaveOn dropped a third of its initial requested search terms and narrowed others. *See* Ex. 12 (Nov. 7, 2024 Ltr.). Finally, SaveOn further narrowed two terms that drove some of the highest hit counts. *See* Ex. 13 (Nov. 21, 2024 Ltr.).

J&J has refused all of SaveOn’s proposals and has never provided a counterproposal. The parties are at impasse. *See* Ex. 14 at 2 (Dec. 6, 2024 Ltr.).

Argument

I. J&J Should Add the Proposed TrialCard Custodians

SaveOn asks Your Honor to compel J&J to add the Proposed TrialCard Custodians. Each was central to developing and deploying J&J’s response to SaveOn, including “the creation and implementation of the CAP Program, and benefits investigations into whether patients were on SaveOnSP programs”—topics that Your Honor has found relevant. Dkt. 307 at 10. J&J does not dispute that these custodians performed relevant work or would be appropriate custodians.

Rick Ford, TrialCard’s Vice President of Market Access, Ex. 15 at -952 (TRIALCARD_00001951), evaluated J&J’s potential responses to SaveOn as early as 2019. *See, e.g.*, Ex. 16 (TRIALCARD_00001966) ([REDACTED]). He helped [REDACTED].

⁴ That collection search term is: “Johnson & Johnson” OR “Johnson and Johnson” OR J&J OR JnJ OR JJHCS OR Janssen OR CarePath OR “Care Path” OR STELARA* OR TREMFYA OR Balversa OR Darzalex OR Edurant OR Erleada OR Imbruvica OR Intelence OR Opsumit OR Ponvory OR Prezcobix OR Remicade OR Rybrevant OR Simponi OR Symtuza OR Tracleer OR Upravi OR Ventavis OR Zytiga OR CAPm OR CAPa. Ex. 10 (Sept. 20, 2024 Ltr.)

Running this “collection limiter” means that J&J runs SaveOn’s proposed search terms over only documents that contain one of the above terms—the equivalent of adding an additional “AND” limiter with the above terms to all of SaveOn’s proposed search terms.

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[REDACTED]. Ex. 17
(TRIALCARD_00001811). In 2019, Ford proposed [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] Ex. 18 (TRIALCARD_00000348).⁵

J&J and TrialCard employees relied on Ford's knowledge of SaveOn and similar services.
Ex. 21 (JJHCS_00035426) ([REDACTED]
[REDACTED]
[REDACTED]); Ex. 22 (TRIALCARD_00006833) ([REDACTED]
[REDACTED]). Contrary to J&J's allegations in this lawsuit, Ford told other J&J employees
in 2021 that [REDACTED]

[REDACTED] Ex. 23
at -932-33 (JJHCS_00035931). He also offered to discuss with J&J [REDACTED]
[REDACTED]
[REDACTED]—supporting SaveOn's position that CarePath's T&Cs, as written, did not

bar patients on SaveOn-advised plans. *Id.*

⁵ See also Ex. 19 (TRIALCARD_00001881) [REDACTED]
[REDACTED]; Ex. 15 (TRIALCARD_00001951) [REDACTED]
[REDACTED]; Ex.
20 (TRIALCARD_00000352) ([REDACTED]
[REDACTED]).

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Jason Zemcik, TrialCard's Director of Product Management, Ex. 15 (TRIALCARD_00001951), was named by J&J as [REDACTED]

[REDACTED] Ex. 24 at 15 (J&J's Jan. 17, 2023 Resps. & Objs. to SaveOn's Interrog. No. 5), and as [REDACTED]

[REDACTED] Ex. 25 at 26 (J&J's Jan. 31, 2024 Supp. Resps. & Objs. to SaveOn's Interrog. No. 6). Documents produced by J&J and TrialCard confirm Zemcik's central role in responding to SaveOn, including by [REDACTED]

[REDACTED]. Ex. 26 (TRIALCARD_00001796).⁶

Tommy Gooch, TrialCard's Director of Major Client Implementation, Ex. 32 at -158 (TRIALCARD_00007157), was a leader in developing and launching the CAP program for Stelara and Tremfya, among other drugs. In November 2021, he wrote the [REDACTED]

[REDACTED]. Ex. 33 (TRIALCARD_00005044). This document included [REDACTED]

⁶ See also Ex. 17 (TRIALCARD 00001811) ([REDACTED]); Ex. 27 at -383-85 (TRIALCARD 00003383) ([REDACTED])

[REDACTED]; Ex. 28 at -638-39 (JJHCS 00001606) ([REDACTED]); Ex. 29 (TRIALCARD 00003417) ([REDACTED]); Ex. 30 (JJHCS 00330741) ([REDACTED]); Ex. 31 at -463-464 (TRIALCARD 00010463) ([REDACTED]).

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[REDACTED] *Id.* at -051-64, -067-68.⁷ In April 2022, Gooch led [REDACTED]
[REDACTED] Ex. 35 at -109 (JJHCS_00008107),
after which he [REDACTED]
id. at -108, [REDACTED], *id.* at -109 ([REDACTED]).

Gooch was also the “Implementation Manager” for [REDACTED]
[REDACTED]
[REDACTED]. Ex. 36 at -413
(JJHCS_00002406).⁸ Gooch has remained [REDACTED],
Ex. 39 (JJHCS_00269898), [REDACTED]
[REDACTED], *see, e.g.*, Ex. 40 (JJHCS_00256548) ([REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]); Ex. 41
(JJHCS_03351300) ([REDACTED]
[REDACTED]).⁹

Lynsi Newton, TrialCard’s Program Manager for Immunology, Ex. 45 at -654

⁷ *See also* Ex. 34 (JJHCS_00029668) ([REDACTED]
[REDACTED]); Ex. 32 (TRIAL-
CARD_00007157) ([REDACTED]
[REDACTED]).

⁸ *See also* Ex. 37 at -098-99 (JJHCS_00263098) ([REDACTED]
[REDACTED]; Ex. 38 at -810-11 (JJHCS_00291809) ([REDACTED]
[REDACTED]).

⁹ Opsumit, Uptravi, and Tracleer are sometimes referred to as Janssen’s pulmonary hypertension (“PH”) drugs. *See* Ex. 42 at -364, -371 (JJHCS_00001355). *See also* Ex. 43 (JJHCS_00008639) ([REDACTED]
[REDACTED]; Ex. 44 (JJHCS_00255235) ([REDACTED]
[REDACTED]).

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(JJHCS_00121652), has been TrialCard's project manager for Stelara and Tremfya's CarePath and CAP programs (among others) since 2022, overseeing the day-to-day administration of these programs.¹⁰ J&J identified her as [REDACTED]

[REDACTED] Ex. 24 at 5 (J&J's Jan. 17, 2023 Resps. & Objs. to SaveOn's Interrog. No. 1).

Among other things, Newton [REDACTED]

[REDACTED].¹¹ She also frequently [REDACTED]

[REDACTED]. *See,*

e.g., Ex. 59 (JJHCS_00259132) ([REDACTED]

[REDACTED]); Ex. 60

(JJHCS_00259344) ([REDACTED]

[REDACTED]).

¹⁰ *See* Ex. 46 at -452 (JJHCS 00242447) ([REDACTED]); Ex. 47 at -130 (JJHCS 00041125) (same for the 2022 work order for the same drugs); Ex. 48 (JJHCS_00220532) ([REDACTED]); Ex. 49 at -206.0043, -206.0046, -206.0052 (JJHCS 00191202) ([REDACTED]); *id.* at -207.0004 (JJHCS 00191202) ([REDACTED]); Ex. 50 at -500 (JJHCS_00001497) (same for the 2022 CAP program work order for the same drugs); Ex. 51 (JJHCS_00171291) ([REDACTED]).

¹¹ *See* Ex. 52 (JJHCS 00004785) ([REDACTED]); Ex. 53 (JJHCS_00004789) (same); Ex. 54 (JJHCS_00034104) (same); Ex. 55 (JJHCS_00034366) (same); Ex. 56 (JJHCS 00004607) (same); Ex. 57 at -127-29 (JJHCS 00341127) ([REDACTED]); Ex. 58 at -351 (JJHCS 00192336) ([REDACTED]); Ex. 49 at -206.0065-66 ([REDACTED]).

April Harrison, TrialCard's Associate Director of Client Services, *see* Ex. 61 at -588 (JJHCS_00008584), was responsible for [REDACTED]
[REDACTED]
[REDACTED] Ex. 62 at -684-85 (JJHCS_00156684); *see also* Ex. 63 (JJHCS_00104715) ([REDACTED]
[REDACTED]). J&J acknowledged that she [REDACTED]
[REDACTED] Ex. 24 at 5 (J&J's Jan. 17, 2023 Resps. & Objs. to SaveOn's Interrog. No. 1); *see also* Ex. 64 (TRIALCARD_00009906) ([REDACTED]
[REDACTED]). She was a [REDACTED]
[REDACTED], *see* Ex. 65 at -175 (JJHCS_00104167); Ex. 66 (JJHCS_00349468), and [REDACTED], *see, e.g.*, Ex. 67 (TRIALCARD_00009879) ([REDACTED]
[REDACTED]); Ex. 68 (JJHCS_00290575) ([REDACTED]
[REDACTED]). Harrison performed similar work for the CAP programs of other relevant Janssen drugs, including Tracleer, Uptravi, Opsumit, Darzalex, Darzalex Faspro, Rybrevant, and Zytiga.¹²

¹²*E.g.*, Ex. 69 at 13 (JJHCS_00122662) ([REDACTED]
[REDACTED]); Ex. 70 (JJHCS_00002344) ([REDACTED]
[REDACTED]); Ex. 71 (TRIALCARD_00007830) ([REDACTED]); Ex. 72 (JJHCS_00290550) ([REDACTED]
[REDACTED]).

Amber Maldonado, TrialCard's Director of Immunology, Ex. 45 at -653 (JJHCS_00121652), helped J&J create and implement the CAP program.¹³ She regularly [REDACTED]
[REDACTED].¹⁴ Maldonado often took notes during those meetings, *see, e.g.*, Ex. 78 (JJHCS_00006991) ([REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]); Ex. 79 (JJHCS_00150441) ([REDACTED]
[REDACTED]); Ex. 80 (JJHCS_00192430) ([REDACTED]
[REDACTED]
[REDACTED]), but J&J has not produced documents and communications reflecting her preparation of materials for these meetings.

Tony McInnis, TrialCard's Escalation Manager for Immunology, Ex. 81 at -308 (JJHCS_00003307), is responsible for the CAP appeals process, which is offered to patients who believe that they have been misidentified as being on accumulators, maximizers, or a SaveOn-advised plan. *See* Ex. 82 at 4 (June 28, 2024 Ltr.). McInnis [REDACTED]

¹³ *See, e.g.*, Ex. 73 (JJHCS_00151235) ([REDACTED]
[REDACTED]); Ex. 74 (JJHCS_00290965) ([REDACTED]
[REDACTED]).

¹⁴ *See, e.g.*, Ex. 75 (TRIALCARD_00006499) ([REDACTED]
[REDACTED]); Ex. 76 at -512 (TRIALCARD_00006511) ([REDACTED]
[REDACTED]); Ex. 77 (JJHCS_00149748) ([REDACTED]
[REDACTED]).

[REDACTED]

[REDACTED]¹⁵ He also [REDACTED]

[REDACTED]. *See, e.g.*, Ex. 86 (JJHCS_00156295) ([REDACTED]); Ex. 5 (JJHCS_00258993) ([REDACTED])

[REDACTED]

[REDACTED]). McInnis is the only Proposed or Existing TrialCard Custodian whose primary responsibilities involved patient appeals, so he is likely to have unique documents about the CAP identification process and procedures for handling patients who were erroneously enrolled in the CAP program. Because [REDACTED], *see* Ex. 87 (JJHCS_00351122), McInnis is likely to have documents about that process that are not in the files of custodians who were J&J employees.

Cosimo Cambi, an Analytics Consultant for TrialCard, Ex. 88 at -308 (TRIAL-CARD_00003308), was named by J&J as [REDACTED]

[REDACTED]

[REDACTED] Ex. 24 at 15 (J&J's Jan. 17, 2023 Resps. & Objs. to SaveOn's Interrog. No. 5). Since 2019, Cambi has been TrialCard's [REDACTED]

[REDACTED]

¹⁵ *See, e.g.*, Ex. 81 (JJHCS 00003307) ([REDACTED]); Ex. 83 (JJHCS 00003312) (same); Ex. 84 (JJHCS 00192551) ([REDACTED]); Ex. 85 (JJHCS_00005885) ([REDACTED]).

[REDACTED]. Ex. 20 (TRIALCARD_00000352).¹⁶ When TrialCard employees were [REDACTED]
[REDACTED]
[REDACTED], Ex. 91 at -289-90 (TRIALCARD_00003292), and tasked
him with [REDACTED]. Ex. 88 at 312-13
(TRIALCARD_00003308). J&J has not produced Cambi’s resulting analysis. Similarly, while
J&J employees [REDACTED]
[REDACTED], Ex. 92 (JJHCS_00143566), J&J has not produced the reports
that Cambi created.

II. SaveOn’s Requested Search Terms Are Appropriate

SaveOn asks Your Honor to compel J&J to run eight search terms over the Proposed Trial-
Card Custodians’ J&J-related documents and to run five of those terms over the files of the four
Existing TrialCard Custodians.¹⁷ J&J does not dispute that these proposed terms are designed to
capture relevant documents. J&J cannot credibly assert that the terms are not proportional—each
is the same as or narrower than terms that either J&J has already agreed to run or that Your Honor
has compelled it to run for other custodians.

¹⁶ See also *id.* ([REDACTED]
[REDACTED]; Ex. 89 (TRIALCARD_00003176) ([REDACTED]
[REDACTED]; Ex. 90 at -086-87 (TRIAL-
CARD_00003086) ([REDACTED]
[REDACTED])).

¹⁷ J&J long ago acknowledged the relevance of the Existing TrialCard Custodians. See Ex. 93 at 1
(Sept. 29, 2023 Ltr.) (Counsel for J&J acknowledging and detailing Sini Abraham, Paul Esterline,
Rick Fry, and Holly Weischedel’s “operational and strategic responsibilities” on behalf of J&J).

Nor can J&J sustain its repeated burden objections.¹⁸ The terms identify a total of 26,000 documents (including families) across the twelve custodians, an average of fewer than 2,200 documents per custodian, *see* Ex. 14 (Dec. 6, 2024 Ltr.), lower than the approximately 2,500 documents that Your Honor found not unduly burdensome for a new custodian. *See* Nov. 18, 2024 Tr. at 37:2-7. Because TrialCard is the primary administrator of J&J’s CAP program, May 23, 2024 Hr’g Tr. at 41:8-9, the burden is easily “proportional to the needs of this high-stakes, multi-million dollar litigation.” *LifeScan, Inc. v. Smith*, 2024 WL 4913269, at *9 (D.N.J. Apr. 5, 2024).

Each of the proposed search terms is appropriate.

First, SaveOn proposes a term for the Proposed TrialCard Custodians designed to capture references to SaveOn’s name:

- SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSp

J&J ran this term over the documents of nearly every other custodian, including the Existing TrialCard Custodians.¹⁹ Each Proposed TrialCard Custodian is likely to have relevant documents that hit on this term because they helped J&J respond to SaveOn, including by administering CarePath and updating its T&Cs, by creating and implementing the CAP program, and by performing benefits investigations to move patients on SaveOn-advised plans in the CAPm program. *See supra* Section I. This term identifies a total of 3,098 documents (with families, 9,377), about forty percent

¹⁸ *See* Ex. 7 (Nov. 4, 2024 Ltr.) (objecting to SaveOn’s search terms as “unduly burdensome” without contesting relevance); Ex. 94 (Nov. 14, 2024 Ltr.) (same); Ex. 8 (Nov. 19, 2024 Ltr.) (same); Ex. 95 (Dec. 4, 2024 Ltr.) (same); Ex. 9 (Dec. 13, 2024 Ltr.) (same).

¹⁹ J&J ran this term for all 18 full custodians, all six CAP custodians, and limited custodians Silas Martin, Scott White, Blasine Penkowski, Karen Lade, Michael Cassano, and Joseph Incelli. It also ran this term for the “refresh period” for the Existing TrialCard Custodians. *See* Ex. 96 at 1, 3 (June 17, 2024 Ltr.) (agreeing to run this term in the refresh period for Existing TrialCard custodians but refusing for Proposed TrialCard Custodians).

of all documents at issue for the Proposed TrialCard Custodians. Ex. 8 at 3 (Nov. 19, 2024 Ltr.). This confirms that they regularly discussed SaveOn while working for J&J.

Second, SaveOn proposes two terms for the Existing and Proposed TrialCard Custodians designed to pick up references to SaveOn as the accumulator or maximizer for Express Scripts, Inc. (“ESI”) or Accredo Health Group, Inc. (“Accredo”):

- (“Express Scripts” OR ESI OR ExpressScripts) w/25 (accumulat* OR maximiz*)
- (Accredo OR Acredo) w/25 (accumulat* OR maximiz*)

J&J ran significantly broader versions of these terms for almost every other custodian.²⁰ J&J and TrialCard [REDACTED], *see, e.g.*, Ex. 17 at -181 (TRIALCARD_00001811); Ex. 97 (JJHCS_00162852), and this term would pick up documents concerning [REDACTED]

[REDACTED]. *See, e.g.*, Ex. 85 (JJHCS_00005885); Ex. 98 (JJHCS_00003313)²¹; Ex. 99 (JJHCS_00003321); Ex. 100

²⁰ J&J ran the following terms over 28 custodians—all 18 full custodians, the six CAP custodians, and limited custodians White, Penkowski, Lade, Joseph Incelli:

- (“Express Scripts” OR ESI OR ExpressScripts) w/50 (accumulat* OR maximiz*)
- (Accredo OR Acredo) w/50 (accumulat* OR maximiz*)

SaveOn’s proposed terms here are narrower: they use a “within 25” limiter instead of a “within 50” limiter, and, because of the collection limiter, every document must also contain J&J’s name, the name of a Janssen drugs at issue, or a CAP-related term.

²¹ Exhibits 98-100 reflect the results of benefits investigations conducted by TrialCard that were shared with J&J in partially redacted format. Redactions in the form of white boxes have been layered over references to the pharmacy “Accredo” on pages 2-3 of each benefits investigation. These references have not, however, been redacted from the extracted text, so these documents still hit on SaveOn’s proposed search terms.

(JJHCS_00003338). The Existing and Proposed TrialCard Custodians are likely to have such documents because they helped J&J identify Accredo and ESI patients on SaveOn-advised plans.²² The ESI term returns 732 hits (with families, 2,024) and the Accredo term returns 745 hits (with families, 1,770) across all twelve custodians. Ex. 8 at 2-3 (Nov. 19, 2024 Ltr.).

Third, SaveOn proposes three terms for the Existing and Proposed TrialCard Custodians relating to the CAP program:

- (CAPa OR CAPm OR “adjustment program”) w/25 (SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP OR accumulat* OR maximiz*)
- (STELARA* OR TREMFYA* OR CarePath OR JCP OR “Savings Program”) w/15 (6000 OR 6,000 OR limit OR eliminate) w/50 (OOP OR “out of pocket” OR “out-of-pocket” OR max* OR benefit* OR offer*)
- (“essential health benefit*” OR EHB* OR “non-essential health benefit” OR “nonessential health benefit*” OR NEHB*) w/50 (CAPa OR CAPm OR “adjustment program” OR accumulat* OR maximiz*)

These terms will capture documents related to the creation and implementation of the CAP program and benefits investigations into whether patients were on SaveOn-advised plans, topics Your Honor has held relevant. Dkt. 307 at 10. The Proposed and Existing TrialCard Custodians are likely to have documents on these topics—years before J&J launched the CAP program, they were explaining to J&J how SaveOn functioned and pitching ideas about how J&J could mitigate SaveOn’s effects. *See supra* Section I at pp. 4-6 (describing 2019 and 2020 communications where

²² *See supra* Section I; *see also*, e.g., Ex. 101 (JJHCS 00005895) ([REDACTED]); Ex. 102 at -079-080 (TRIAL-CARD 00003079) ([REDACTED]); Ex. 103 at -642-43 (TRIAL-CARD 00008634) ([REDACTED]).

Proposed TrialCard Custodians Ford and Zemcik explain SaveOn's services to J&J and identify how TrialCard could help J&J combat SaveOn).²³ When J&J decided to launch the CAP program, *see* Ex. 76 at -512 (TRIALCARD_00006511), the Existing and Proposed TrialCard Custodians were central in transforming it from a high-level concept into a full-fledged program with detailed protocols.²⁴ In the three years since the CAP program's launch in early 2022, they have continued to administer, monitor, and modify the program.²⁵

²³ *See also, e.g.*, Ex. 27 at -383-86 (TRIALCARD 00003383) (

); Ex. 104 (JJHCS 00330808) (

).

²⁴ *See supra* Section I at pp. 6-12 (describing Gooch's role in

; Newton's

role as the Stelara and Tremfya CAP program's project manager; Harrison's role in designing, negotiating, and implementing the CAP programs for Erleada and other Janssen drugs; Maldonado's role setting J&J's vision for the CAP program; McInnis's role handling appeals for CAP patients, including patients on SaveOn-advised plans; and Cambi's role identifying patients on SaveOn-advised plans); Ex. 22 at -834 (TRIALCARD 00006833) (

); Ex. 105 at -515 (JJHCS 00242515) (

); Ex. 106 at -162-63

(JJHCS 00296161) (

); Ex. 107

(JJHCS 00330750) (

); Ex. 108 (JJHCS 00346179) (

).

²⁵ *See supra* Section I at pp. 6-11 (describing Gooch's work

; Newton's work

; Harrison's work

; Maldonado's work leading and notetaking during CAP-related meetings; and McInnis's work spearheading the patient appeals process for benefits investigations); *see also* Ex. 109 (TRIALCARD 00007577) (

The first two CAP-related searches require J&J to review 16,028 documents (including families) across the twelve custodians.²⁶ Ex. 95 (Dec. 4, 2024 Ltr.). The third search hits on just 199 documents (443 including families). Ex. 8 at 2-3 (Nov. 19, 2024 Ltr.). These terms are narrowly tailored; each is significantly narrower than agreed-upon or court-ordered terms that J&J ran for other custodians.²⁷ The fact that these terms still hit on a substantial number of documents,

[REDACTED]; Ex. 110 (JJHCS 00290875) ([REDACTED]
[REDACTED]; Ex. 111 at -579-80
(JJHCS 00351578) ([REDACTED]
[REDACTED]ans); Ex. 112 at -116
(JJHCS 00350116) ([REDACTED]
[REDACTED]).

²⁶ J&J did not provide the number of unique documents identified by these search terms, despite SaveOn's request. *See* Ex. 13 at 1 (Nov. 21, 2024 Ltr.).

²⁷ J&J ran the following terms over all six existing CAP custodians:

- (CAPa OR CAPm OR "adjustment program") AND (SaveOnSP OR SaveOn OR "Save On SP" OR "Save OnSP" OR Save-On OR SOSp)
- (CAPa OR CAPm OR "adjustment program") AND (accumulat* OR maximiz*)

SaveOn's proposed term is narrower—it uses a "within 25" limiter instead of an "AND" connector.

J&J also ran the following term for all eighteen full custodians and limited custodians Scott White, Blasine Penkowski, and Karen Lade:

- (STELARA* OR TREMFYA* OR CarePath OR JCP OR "Savings Program") w/25 (6000 OR 6,000 OR limit OR eliminate)

SaveOn's proposed term is narrower: (1) it uses a "within 15" limiter instead of a "within 25" limiter; (2) it has an additional limiter requiring those terms appear within fifty words of "(OOP OR "out of pocket" OR "out-of-pocket" OR max* OR benefit* OR offer*);" and (3) because of J&J's collection limiter, every document identified by SaveOn's proposed terms must also contain J&J's name, the name of a Janssen drugs at issue, or a CAP-related term. It bears noting that J&J has also already run the same "essential health benefit" term for all six CAP custodians without

even though SaveOn has now narrowed its proposal three times, shows that the Existing and Proposed TrialCard Custodians were central to the CAP program.

Fourth, SaveOn proposes the following terms for the Proposed TrialCard Custodians to capture documents on TrialCard’s work revising the T&Cs and enrolling patients in CarePath:

- (“Johnson & Johnson” OR “Johnson and Johnson” OR J&J OR JnJ OR JJHCS OR Janssen) AND (CarePath w/5 “term* and condition*”)
- (“Johnson & Johnson” OR “Johnson and Johnson” OR J&J OR JnJ OR JJHCS OR Janssen) AND (enroll w/5 CarePath) AND contact*

TrialCard proposed these terms in September 2023 when it was represented by J&J’s counsel, *see* Ex. 113 at 1 n.1 (Sept. 8, 2023 Ltr.), and it ran them for the Existing TrialCard Custodians, Ex. 96 (June 17, 2024 Ltr.); Ex. 3 (May 24, 2024 Ltr.). It should do the same for the Proposed TrialCard Custodians. Like the Existing TrialCard Custodians, the Proposed TrialCard Custodians helped revise the CarePath T&Cs to reflect the CAP program’s changes in eligibility criteria and developed and oversaw communications with CarePath patients, including patients intentionally or mistakenly enrolled in the CAP program.²⁸ These custodians are thus likely to have documents relevant to the T&Cs’ “disputed meaning,” which is “at the heart of Plaintiff’s claim,” Dkt. 192 at 27,

the collection limiter, and ran a broader version of the term without the “within 50” limiter in SaveOn’s proposed term, for all full custodians.

²⁸ *See supra* Section I at pp. 4-12 (discussing Ford’s conclusion that [REDACTED]; Zemcik’s recommendation that [REDACTED]; Gooch’s role creating [REDACTED]; Newton’s role [REDACTED]; Harrison’s role [REDACTED]; Maldonado’s [REDACTED]; McInnis’s role corresponding with patients who believed they were mistakenly enrolled in the CAP program; and Cambi being looped into conversations about [REDACTED]); *see also*, e.g., Ex. 114 at -410 (JJHCS_00076406) ([REDACTED])

and their communications and interactions with CAP-enrolled patients are relevant to J&J's tortious interference claim that SaveOn, Accredo, and Express Scripts wrongfully induced patients to enroll in CarePath. Am. Compl. ¶ 185. The first term identifies a total of 616 documents (with families, 1,606), and the second identifies 974 documents (with families, 2,487). *See* Ex. 8 at 3 (Nov. 19, 2024 Ltr.).

SaveOn appreciates Your Honor's attention to this matter.

Respectfully submitted,

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Attorneys for Defendant Save On SP, LLC

); Ex. 115 at -261 (JJHCS_00195261) (

Appendix 1

Search Terms by Custodian

I. Search Terms for Proposed TrialCard Custodians

- Terms Related to SaveOn
 1. SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP
 2. (“Express Scripts” OR ESI OR ExpressScripts) w/25 (accumulat* OR maximiz*)
 3. (Accredo OR Acredo) w/25 (accumulat* OR maximiz*)
- Terms Related to CarePath
 4. (“Johnson & Johnson” OR “Johnson and Johnson” OR J&J OR JnJ OR JJHCS OR Janssen) AND (enroll w/5 CarePath) AND contact*
 5. (“Johnson & Johnson” OR “Johnson and Johnson” OR J&J OR JnJ OR JJHCS OR Janssen) AND (CarePath w/5 “term* and condition”*)
- Terms Related to the CAP Program
 6. (CAPa OR CAPm OR “adjustment program”) w/25 (SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP OR accumulat* OR maximiz*)
 7. (STELARA* OR TREMFYA* OR CarePath OR JCP OR “Savings Program”) w/15 (6000 OR 6,000 OR limit OR eliminate) w/50 (OOP OR “out of pocket” OR “out-of-pocket” OR max* OR benefit* OR offer*)
 8. (“essential health benefit*” OR EHB* OR “non-essential health benefit” OR “nonessential health benefit*” OR NEHB*) w/50 (CAPa OR CAPm OR “adjustment program” OR accumulat* OR maximiz*)

II. Search Terms for Existing TrialCard Custodians

- Terms Related to SaveOn
 1. (“Express Scripts” OR ESI OR ExpressScripts) w/25 (accumulat* OR maximiz*)
 2. (Accredo OR Acredo) w/25 (accumulat* OR maximiz*)
- Terms Related to the CAP Program
 3. (CAPa OR CAPm OR “adjustment program”) w/25 (SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP OR accumulat* OR maximiz*)

4. (STELARA* OR TREMFYA* OR CarePath OR JCP OR “Savings Program”) w/15 (6000 OR 6,000 OR limit OR eliminate) w/50 (OOP OR “out of pocket” OR “out-of-pocket” OR max* OR benefit* OR offer*)
5. (“essential health benefit*” OR EHB* OR “non-essential health benefit” OR “nonessential health benefit*” OR NEHB*) w/50 (CAPa OR CAPm OR “adjustment program” OR accumulat* OR maximiz*)

Exhibit 1

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Emma Holland
Associate
212 390 9364
eholland@selendygay.com

July 26, 2023

Via E-mail

Katherine Brisson
Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas
New York, NY 10036
kbrisson@pbwt.com

Re: *Johnson & Johnson Health Care Systems Inc. v. Save On SP, LLC (Case No. 2:22-cv-02632-ES-CLW)*

Dear Katherine,

We write in response to your July 13, 2023 and July 19, 2023 letter regarding TrialCard, Inc.'s ("TrialCard") response to the subpoena served by Save On SP, LLC ("SaveOnSP") and in further response to your June 7, 2023 letter on that subject.

First, in your July 13 letter, you state that TrialCard agrees to produce documents from non-custodial sources in response to Request No. 3, but, to the extent custodial files include non-privileged documents responsive to those requests, you will produce them. This is not sufficient. Request No. 3 seeks documents and communications "with or regarding SaveOnSP, including those between You and JJHCS, You and any patients, and You and any other Hub Entity." A reasonable search for documents responsive to this Request must include a search of custodial files that are likely to contain such communications. Please confirm that TrialCard will add custodians likely to have documents responsive to this Request and will produce such documents. Also in your June 7 letter, regarding Request No. 3, you decline to add the search terms "OOP" and "out-of-pocket." We propose that TrialCard instead use the terms "zero out-of-pocket," which is mentioned frequently in sample patient letters regarding SaveOnSP, *see, e.g.*, TRIALCARD_00000119, and the similar terms "zero OOP", "no OOP", and "no out-of-pocket." Please confirm that TrialCard will add these four search terms.

Second, in your June 7 letter, you stated that TrialCard did not have any documents responsive to Request Nos. 5, 6, 7, 8, 10–17, 20–22, 24–25, 29, and 32

Katherine Brisson
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beyond those that it had agreed to produce at that point. In your July 13 letter, you state that TrialCard will now perform a custodial search for documents responsive to Request Nos. 8-9 and 11-15, which includes six of those Requests. Please tell us if TrialCard will produce documents responsive to Request Nos. 5, 6, 7, 16-17, 20-22, 24-25, 29, and 32 beyond those that it has already agreed to produce.

Third, in your June 7, 2023 letter, you stated that TrialCard would not produce documents responsive to Request Nos. 13-15, 17, 20, and 22, stating that “TrialCard would have furnished any such deliverables to JJHCS, which in turn would be captured by JJHCS’s document production” and documents “not furnished to JJHCS” are irrelevant. In your July 13 letter, you state that TrialCard will now perform a custodial search for documents responsive to Request Nos. 8-9 and 11-15, which includes three of those Requests. Please tell us if TrialCard will produce documents responsive to Request Nos. 17, 20, and 22.

Regarding Request No. 22 specifically, which seeks all Documents and Communications regarding JJHCS’s attempts to identify health plans advised by SaveOnSP or Patients enrolled in such plans, JJHCS recently disclosed that TrialCard has responsive material. JJHCS has stated in its Responses and Objections to SaveOnSP’s Second Set of Interrogatories, that [REDACTED]

[REDACTED] See JJHCS’s R&Os to SaveOnSP’s Second Set of Interrogatories at 4. [REDACTED]

[REDACTED] are responsive to this request and relevant to the claim and defenses at issue. Please tell us whether TrialCard will produce them.

Fourth, you state that TrialCard will perform a custodial search for documents responsive to Request Nos. 8, 9, and 11-15 but only those that expressly reference SaveOnSP. This is insufficient, as documents regarding SaveOnSP may well not reference SaveOnSP expressly. For example, TrialCard should produce documents referring to maximizers and Express Scripts, [REDACTED]

[REDACTED]. See, e.g., JJHCS_00081459 (JJHCS email saying that [REDACTED]), JJHCS_00081461 (report attached to JJHCS_00081459 stating that [REDACTED])

[REDACTED], JJHCS_00008991 (JJHCS email referring to [REDACTED]). Please confirm that TrialCard will search for documents relating to SaveOnSP beyond those expressly referencing SaveOnSP.

Fifth, in your July 19, 2023 letter you propose a handful of search terms that TrialCard intends to use for its custodial search. You propose the term SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSp as an independent search but use (SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSp OR “org*

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chart” OR “retention policy”) to limit all three other proposed searches. In effect, you propose only SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSp as a search term, plus a few searches for “org* chart” OR “retention policy.” In searching for documents responsive to Request Nos. 8, 9, and 11-15, TrialCard should search for documents referring to SaveOnSP, without expressly naming it. We request that TrialCard supplement its list of proposed search terms with the terms on Appendix A. If JJHCS refuses to use any of these terms, please explain why. If JJHCS asserts that using any of these terms would be unduly burdensome, please provide a hit count of how many unique documents the proposed term generates.

Sixth, in your July 13, 2023 letter, you state that TrialCard does not intend to produce any documents that are also in the possession of JJHCS. This is insufficient. A non-party may not withhold documents simply because it shared those documents with a party to the litigation. *See Wyeth v. Abbott Lab’s*, No. 08-230 (JAP), 2011 WL 2429318, at *8 (D.N.J. June 13, 2011). You also do not confirm that JJHCS has produced all relevant documents that are in the possession of both JJHCS and Trial Card. Please confirm that TrialCard will not withhold responsive documents on the basis that it believes that they are in JJHCS’s possession.

Seventh, in your July 13, 2023 letter, you propose that Trial Card designate only Holly Weischedel and Sini Abraham as custodians. We propose that TrialCard also add the following individuals as custodians, as JJHCS’s production shows that they have relevant documents. Please confirm that TrialCard will add:

- **Richard (“Rick”) Ford.** Ford is the Vice President of Market Access at TrialCard and [REDACTED]. *See, e.g., JJHCS_00011226* ([REDACTED]). Ford also explained to other TrialCard vice presidents how [REDACTED]. *Id.*, JJHCS_00003009.
- **Jason Zemcik.** Zemcik is the Senior Director of Product Management, JJHCS_00001595, and [REDACTED]. *See JJHCS_00003059.* [REDACTED] *See JJHCS_00026255.* [REDACTED]
- **Rick Fry.** [REDACTED]

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- [REDACTED]
- **Jimmar Wilson.** Wilson is a Training Manager. See JJHCS_00058358. [REDACTED]
 - **Dorothy Williams.** Williams is a Trainer whose work includes Care-Path training. See JJHCS_00126193. [REDACTED]
 - **Amber Maldonado.** Based on email communications Maldonado sent to other TrialCard employees and to employees at JJHCS, [REDACTED] JJHCS_00006991, JJHCS_00005061. Maldonado both sent and received information that is directly relevant to JJHCS's response to SaveOnSP. JJHCS_00006991, JJHCS_00005543.
 - **April Harrison.** April Harrison is an Associate Director of Client Services at TrialCard, JJHCS_00104674, and as such, [REDACTED] See, e.g., JJHCS_00008733, JJHCS_00008584. Harrison has been [REDACTED] See JJHCS_00002344.
 - **Tony McInnis.** As the Escalation Manager, McInnis [REDACTED] See JJHCS_00002774. These patient communications would very likely include patient complaints, to the extent there are any, regarding stress, confusion or other harm. McInnis has received emails that [REDACTED]. See JJHCS_0005543.
 - **Tommy Gooch.** As TrialCard's Implementation Project Manager, JJHCS_00001885, [REDACTED] See, e.g., JJHCS_00005784, JJHCS_00008104. Gooch also communicated with JJHCS and TrialCard employees regarding

Katherine Brisson
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[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] See
JJHCS_00008050, JJHCS_00004076.

- **Paul Esterline.** Esterline received inquiries from JJHCS employees regarding [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
JJHCS_00007521. Esterline also [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
JJHCS_00008104, and another email and discussion regarding [REDACTED]
[REDACTED], JJHCS_00005543.

- **Lynsi Newton.** Newton [REDACTED]
[REDACTED] TRIAL-
CARD_00000201.
[REDACTED]
[REDACTED] See JJHCS_00004607,
JJHCS_00004608, JJHCS_00004611.

- **Kimberly Spencer.** Spencer [REDACTED]
[REDACTED] TRIALCARD_00000201.
[REDACTED]
[REDACTED],
JJHCS_00122619, and thus may have information regarding Save-
OnSP's alleged financial harm to JJHCS.

- **JeLisa Irving.** Irving [REDACTED]
[REDACTED] TRIALCARD_00000201.
[REDACTED]
JJHCS_00126221.
[REDACTED]

- **Philip Sloate.** Sloate [REDACTED] TRIAL-
CARD_00000201.
[REDACTED]

- **Samone Evans.** Evans [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

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TRIALCARD_00000201. [REDACTED]

- **Mariel Chahin.** Chahin is an Associate Program Director at TrialCard. JJHCS_00004713. Chahin communicated with JJHCS employees related to [REDACTED]

[REDACTED] *Id.* Chahin was also involved in [REDACTED]

[REDACTED] JJHCS_00073983, JJHCS_00082761. Chahin's records will likely include any comments by patients regarding SaveOnSP or SaveOnSP's alleged harm to JJHCS.

Eighth, in your June 7, 2023 letter, you state that TrialCard produced its only company-wide document retention policy, which was published in 2023. Please either produce retention policy was operative from April 1, 2016 to July 1, 2022 or state that TrialCard had no such policies prior to 2023.

Ninth, the organizational chart that TrialCard provided at TRIALCARD_00000200, is illegible as produced. Please reproduce this document in a legible form.

Finally, please confirm that you will produce data dictionaries for data you produce in response to Request No. 31.

We request a response by August 2, 2023. We reserve all rights and are available to meet and confer.

Best,

/s/ Emma Holland

Emma C. Holland
Associate

Katherine Brisson
July 26, 2023

Appendix A

No.	JJHSC's Proposed Search Terms ¹	New Search Term	Basis
1	SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP	SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP OR "Save OnSP" OR Maxim- ize* OR ("Express Scripts" OR ESI) OR Ac- credo OR CAP*	As explained above, TrialCard should produce documents referring to SaveOnSP without referencing it explicitly.
2	("Johnson & Johnson" OR "Johnson and John- son" OR J&J OR JnJ OR JJHCS OR Janssen) AND (SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP OR "org* chart" OR "retention pol- icy")	("Johnson & Johnson" OR "Johnson and John- son" OR J&J OR JnJ OR JJHCS OR Janssen) AND (Save- OnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP OR "org* chart" OR "retention policy")	Note for all of these searches, the only documents that will not be captured by the first search term is documents with the terms "org* chart" OR "retention policy" which will return documents responsive to Request Nos. 1, 2, and 30. However, in your July 13 letter, you state that TrialCard agreed to produce documents from non-custodial sources in response to Request Nos. 1, 2, 3, 18(i)-(m), and 30, but would not directly search custodial records for responsive documents.
3	(CarePath OR "Care Path") AND (SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP OR "org* chart" OR "re- tention policy")	(CarePath OR "Care Path") AND (SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP OR "org* chart" OR "re- tention policy")	
4	(Accumulator OR Maxi- mizer) AND (SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP OR "org* chart" OR "re- tention policy")	(Accumulator OR Maxi- mizer) AND (SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP OR "org* chart" OR "re- tention policy")	

¹ All proposed search terms cover the period of April 1, 2016 to July 1, 2022 (the "Relevant Time Period"). Please tell us if you do not agree to search all documents during this time period.

Katherine Brisson
July 26, 2023

No.	JJHSC's Proposed Search Terms ¹	New Search Term	Basis
5		"Retention Polic*"	To the extent TrialCard intends to search custodial documents for retention policies published prior to 2023 we do not believe that limiting your search to policies that mention Johnson & Johnson, JJHCS, CarePath, Accumulators, or Maximizers will return retention policies applicable to all of TrialCard.

Exhibit 2



August 3, 2023

Katherine Brisson
(212) 336-2552

Emma Holland, Esq.
Selendy Gay Elsberg PLLC
1290 Avenue of the Americas
New York, NY 10104

Re: *Johnson & Johnson Healthcare Systems, Inc. v. Save On SP, LLC*
Case No. 2:22-cv-02632 (ES) (CLW)

Dear Emma:

On behalf of TrialCard, we write in response to your July 26, 2023 letter concerning TrialCard's response to the third-party subpoena served by SaveOnSP.

Request No. 3. You appear to misunderstand how we will be responding to Request No. 3. As we have explained, we have already agreed to search custodial files for documents responsive to this Request. *See* July 13 Ltr. from K. Brisson to E. Holland. The specific search terms we intend to apply to custodial data are addressed more fully below.

As to non-custodial documents, we decline your invitation to add the proposed terms to our collection of case and tasks notes for the reasons already explained. *See* June 7, 2023 Ltr. from K. Brisson to E. Holland. Specifically, we have already produced 19,933 records from TrialCard's centralized database that hit on 12 existing search terms. The limitations you have proposed with respect to the "out of pocket" term (specifically adding the terms "no" and "zero") are insufficient to address the substantial burden we have already identified in our June 7 letter. Indeed, as we have already explained, nearly every single call to TrialCard relating to the CarePath program likely involves some mention or reference to the terms "out-of-pocket" or "OOP," and SaveOnSP is not entitled to every call concerning out-of-pocket costs without some reasonable subject matter limitation. Your proposed terms do not represent such a reasonable limitation.

Scope of Custodial Searches. TrialCard confirms that it will perform a custodial search for documents responsive to Request Nos. 8–9 and 11–15, as well as Request Nos. 1, 2, 3, 18(i)-(m), and 30 (which are the requests to which it previously agreed to produce non-custodial documents). TrialCard will not produce custodial documents responsive to the remainder of the Requests.

Request No. 22/Documents in JJHCS's Possession. Regarding Request No. 22 specifically, we have previously explained that TrialCard will not produce documents that are

Emma Holland, Esq.
August 3, 2023
Page 2

already in the possession of JJHCS. *See, e.g.*, May 12, 2023 Ltr. from G. Carotenuto to A. Dunlap. Your own cited authority is in accord. *See Wyeth v. Abbott Lab'ys*, 2011 WL 2429318, at *8 (D.N.J. June 13, 2011) (“To the extent Plaintiffs seek to compel Novartis to produce documents already produced by Abbott, Plaintiffs’ motions to enforce their subpoenas are denied as duplicative.”). Moreover, as we have also previously explained at length, this is consistent with the position that SaveOnSP has endorsed with respect to its own business partners, ESI and Accredo, for which it has suggested that third-parties need not duplicate party productions. *See generally* Ltr. from K. Brisson to E. Holland dated June 16, 2023.

Nothing about JJHCS’s Responses and Objections to SaveOnSP’s Second Set of Interrogatories alters this position. TrialCard has already produced enrollment and claims data, and to the extent JJHCS received analyses or other deliverables concerning this data, these documents would be in JJHCS’s possession. Indeed, as we have already explained, analysis of such data would have been done at the request of, or in consultation with, JJHCS. Further, as explained in its Responses and Objections to SaveOnSP’s Second Set of Interrogatories, JJHCS intends to produce documents sufficient to show the analyses at issue.

Finally, you ask TrialCard to confirm that JJHCS has produced all documents in the possession of both JJHCS and TrialCard. TrialCard has no reason to question JJHCS’s assertion that JJHCS has produced such documents to the extent necessary to satisfy JJHCS’s discovery obligations and as negotiated by the parties.

Additional Custodians and Custodial Search Terms. We reiterate that while we still do not believe custodial collections are necessary at all, we have undertaken such collections to moot the concerns you have expressed and to avoid an unnecessary dispute. *See* July 6, 2023 Ltr. from K. Brisson to E. Holland. In addition to the two custodians we have already proposed, you now request the addition of sixteen document custodians. This is grossly disproportionate to TrialCard’s status as a third-party and would present a significant burden. Nevertheless, in the interest of reaching compromise, we will agree to add Rick Fry¹ and Paul Esterline² as additional custodians if that will resolve this dispute. We are in the process of collecting these custodians’ file. Once we have done so, we will revert to address the issues you have raised with respect to additional search terms, including those proposed in Appendix A to your letter.

TRIALCARD_00000200. TrialCard is investigating the legibility issue you have identified and will reproduce a replacement version to the extent feasible.

Document Retention Policy. The document retention policy produced as TRIALCARD_00000125 has been in effect since December 16, 2020 and was modified on

¹ Mr. Fry served as Senior Vice President, Client Solutions from February 2020 to August 2022. Prior to that, he served in various roles in Operations and Client Services for nearly seven years.

² Mr. Esterline is currently Director of Reporting and Analytics and has held several prior roles in analytics and strategic accounts.

Emma Holland, Esq.
August 3, 2023
Page 3

January 31, 2023 to include the “TC Script Records Portion” in Appendix A. Based on reasonable investigation, TrialCard does not have any other responsive retention documents.

Data Dictionary. In the event you have a specific question concerning the meaning of a particular data field, we are open to addressing it on a case-by-case basis.

Very truly yours,

/s/ Katherine Brisson
Katherine Brisson

Exhibit 3

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Hannah R. Miles

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May 24, 2024

Via E-mail

Sara A. Arrow

Patterson Belknap Webb & Tyler LLP

1133 Avenue of the Americas

New York, NY 10036

sarrow@pbwt.com

Re: *Johnson & Johnson Health Care Systems Inc. v. Save On SP, LLC* (Case No. 2:22-cv-02632-JKS-CLW)

Dear Sara,

We write to you in your capacity as counsel for J&J.

As you know, at yesterday's discovery conference, Judge Wolfson held that J&J controls TrialCard's documents regarding its work for J&J.

First, SaveOn requests that J&J produce custodial documents in TrialCard's possession from the "refresh" period of July 1, 2022 to November 7, 2023 for the four custodians and search terms on Appendix 1. As you know, TrialCard previously agreed to produce documents using those same search terms from those same custodians from April 1, 2016 to July 1, 2022.

Second, SaveOn requests that J&J produce TrialCard's custodial and non-custodial documents, from April 1, 2016 to November 3, 2023, regarding TrialCard's work for J&J in identifying patients on accumulators, maximizers, and SaveOn-advised plans, including but not limited to the development, roll out, and operation of the CAP Program. Please identify any non-custodial sources of such documents at TrialCard and produce any responsive, non-privileged documents. Please also identify and designate as custodians any individuals at TrialCard who worked on these efforts during the discovery period. This should include, without limitation, the seven individuals identified on Appendix 2. Please run the search terms proposed on Appendix 2 over the documents of all custodians and produce any responsive, non-privileged documents.

Sara A. Arrow
May 24, 2024

Finally, SaveOn requests that J&J produce the approximately 1,500 call recordings in TrialCard's possession that SaveOn previously requested from TrialCard. A list of those calls is enclosed. J&J's proposal—that SaveOn produce approximately 28,000 call recordings in exchange for the approximately 1,500 call recordings that SaveOn seeks—is disproportionate. While we continue to evaluate J&J's request and are happy to consider an appropriately narrowed request, it is not appropriate for J&J to condition its production of the responsive call recordings that SaveOn seeks on a reciprocal production from SaveOn that J&J waited a year to request.

We request a response by May 31, 2024.

Sincerely,

/s/ Hannah Miles

Hannah R. Miles
Associate

Sara A. Arrow
May 24, 2024

Appendix 1

- Custodians:
 - Holly Weischedel
 - Sini Abraham
 - Paul Esterline
 - Rick Fry
- Search Terms (see July 26, 2023 Ltr. from E. Holland to K. Brisson, at App. A; Aug. 24, 2023 Ltr. from K. Brisson to E. Holland, at 3 & n.1-2; Sept. 8, 2023 Ltr. from K. Brisson to E. Holland at n.1).
 - SaveOnSP OR SaveOn OR “Save On SP” OR Save On” OR SOSP
 - (“Johnson & Johnson” OR “Johnson and John-son” OR J&J OR JnJ OR JJHCS OR Janssen) AND (Save-OnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP OR “org* chart” OR “retention policy”)
 - (CarePath OR “Care Path”) AND (SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP OR “org* chart” OR “retention policy”)
 - (Accumulator OR Maximizer) AND (SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP OR “org* chart” OR “retention policy”)
 - ("Johnson & Johnson" OR "Johnson and Johnson" OR J&J OR JnJ OR JJHCS OR Janssen) AND (CarePath w/5 "term* and condition*")
 - (Accumulator OR Maximizer OR SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP) w/10 (CarePath AND (Stelara OR Tremfya) AND (limit OR eliminat*))
 - ("Johnson & Johnson" OR "Johnson and Johnson" OR J&J OR JnJ OR JJHCS OR Janssen) AND (enroll w/5 CarePath) AND contact*

Sara A. Arrow
May 24, 2024

Appendix 2

- Proposed TrialCard custodians:
 - Jason Zemcik
 - Rick Ford
 - April Harrison
 - Tommy Gooch
 - Lynsi Newton
 - Amber Maldonado
 - Cosimo Cambi
- Proposed search terms:
 - Previously agreed to TrialCard search terms:
 - SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP
 - (“Johnson & Johnson” OR “Johnson and John-son” OR J&J OR JnJ OR JJHCS OR Janssen) AND (Save-OnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP OR “org* chart” OR “retention policy”)
 - (CarePath OR “Care Path”) AND (SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP OR “org* chart” OR “retention policy”)
 - (Accumulator OR Maximizer) AND (SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP OR “org* chart” OR “retention policy”)
 - (“Johnson & Johnson” OR “Johnson and Johnson” OR J&J OR JnJ OR JJHCS OR Janssen) AND (CarePath w/5 “term* and condition*”)
 - (Accumulator OR Maximizer OR SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP) w/10 (CarePath AND (Stelara OR Tremfya) AND (limit OR eliminat*))

Sara A. Arrow
May 24, 2024

- (“Johnson & Johnson” OR “Johnson and Johnson” OR J&J OR JnJ OR JJHCS OR Janssen) AND (enroll w/5 CarePath) AND contact*
- CAP search terms:
 - (CAPa OR CAPm OR “adjustment program”) **AND** (Save-OnSP OR SaveOn OR “Save On SP” OR Save On” OR SOSp OR accumulat* OR maximiz*)
 - (“essential health benefit*” OR EHB* OR “non-essential health benefit” OR “nonessential health benefit*” OR NEHB*) **w/50** (“CAPa” OR CAPm” OR “adjustment program” OR accumulat* OR maximiz*)
 - “Save On” (*case sensitive*)
 - “save on” **w/50** (accumulat* OR maximiz* OR “essential health benefit*” OR EHB* OR “non-essential health benefit*” OR “nonessential health benefit*” OR NEHB* OR accredo OR ESI OR “express scripts”)
 - “other offer” **w/5** (accumulat* OR maximiz*)
 - (“Express Scripts” OR ESI OR ExpressScripts) **w/50** (“accumulat* OR maximiz*)
 - (Accredo OR Acredo) **w/50** (accumulat* OR maximiz*)
 - (STELARA* OR TREMFYA* OR CarePath OR JCP OR “Savings Program”) w/25 (6000 OR 6,000 OR limit OR eliminate)

Exhibit 4

Selendy Gay Elsberg PLLC
1290 Avenue of the Americas
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212.390.9000

PageID: 67460



Hannah Miles
Associate
212 390 9055
hmiles@selendygay.com

December 8, 2023

CONFIDENTIAL

Via E-mail

Sara A. Arrow
Patterson Belknap Webb & Taylor LLP
1133 Avenue of the Americas
New York, NY 10036
sarrow@pbwt.com

Re: *Johnson & Johnson Health Care Systems Inc. v. Save On SP, LLC* (Case No. 2:22-cv-02632-ES-CLW)

Dear Sara,

We write regarding TrialCard, Inc.'s ("TrialCard") response to Save On SP, LLC's ("SaveOnSP") subpoena, served February 18, 2023.

To date, TrialCard has only agreed to produce documents from four custodians, Holly Weischedel, Sini Abraham, Paul Esterline, and Rick Fry. After reviewing TrialCard's production, SaveOnSP believes that TrialCard should add as custodians Jason Zemcik, Richard ("Rick") Ford, April Harrison, Tommy Gooch, Amber Maldonado, Cosimo Cambi, and Lynsi Newton.

Jason Zemcik, Senior Director of Product Management, was named by JJHCS as [REDACTED] Jan 17, 2023 JJHCS's Resps. to SaveOnSP's First Interrogatories at 16. [REDACTED], JJHCS 00026255, and [REDACTED], JJHCS 00005528; JJHCS 00118208; *see also* Jan 17, 2023 JJHCS's Resps. to SaveOnSP's First Interrogatories at 15 ([REDACTED]). Internally, [REDACTED] See, e.g., TRIALCARD 00001815 [REDACTED] TRIALCARD 00001804 ([REDACTED]); TRIALCARD 00001884; TRIALCARD 00003340. Zemcik [REDACTED]

Sara Arrow
December 8, 2023

[REDACTED] TRIALCARD 00001951. He also [REDACTED]
[REDACTED] TRIALCARD 00002804–2823, and another titled [REDACTED]
[REDACTED] TRIALCARD_00002931–2969. Zemcik is also the sole sender or recipient on several relevant communications produced by JJHCS. *See, e.g.*, JJHCS_00008107–8124; JJHCS_00001745; JJHCS_00007308.

Rick Ford, Vice President of Market Access, provided [REDACTED] JJHCS 00026340–6341 (concluding that [REDACTED]

[REDACTED]). Ford was considered a key resource for other employees to help them understand SaveOnSP's programs and TrialCard's efforts to counter them. *See, e.g.*, TRIALCARD 00001951–55 (

[REDACTED]). Ford was central to [REDACTED]
[REDACTED] TRIALCARD 00001811; *see also* TRIALCARD 00001966 [REDACTED]

[REDACTED]). Ford [REDACTED]
[REDACTED] TRIALCARD 00000348; *see also* TRIALCARD 00001881 [REDACTED]

[REDACTED]). Ford also provided [REDACTED]

[REDACTED] TRIALCARD_00000356; *see also* TRIALCARD_00000362; TRIALCARD_00000389; TRIALCARD_00001797. Ford was also the sole sender or recipient on several relevant communications produced by JJHCS, *see, e.g.*, JJHCS_00035931–5933, and TrialCard, *see, e.g.*, TRIALCARD_00006722; TRIALCARD_00002552; TRIALCARD_00002430 TRIALCARD_00002289.

April Harrison, Associate Director of Client Services, played an integral role in implementing JJHCS's CAP program, aimed at entities like SaveOnSP. [REDACTED]

[REDACTED] TRIALCARD 00002368, and was responsible for [REDACTED]

[REDACTED] TRIALCARD 00003951. Harrison [REDACTED]
[REDACTED] TRIALCARD_00003760.

Sara Arrow
December 8, 2023

Harrison was also [REDACTED]
[REDACTED], TRIALCARD 00007218, [REDACTED]
[REDACTED], TRIAL-
CARD 00007185, and [REDACTED]
[REDACTED] TRIAL-
CARD_00007577.

Tommy Gooch, Director, Major Client Implementation, [REDACTED]
[REDACTED]. See, e.g., JJHCS 00005784,
JJHCS 00008104. Gooch [REDACTED]
[REDACTED] TRIALCARD 00005044. Gooch also [REDACTED]
[REDACTED] TRIALCARD 00005657. Gooch
was also [REDACTED]
[REDACTED] TRIALCARD_00007157

Lynsi Newton, Program Manager, Immunology, was responsible for [REDACTED]
[REDACTED],
drugs which are central to this dispute. TRIALCARD 00003951. Newton discussed [REDACTED]
[REDACTED]. See JJHCS 00004607, JJHCS 00004608, JJHCS 00004611.
Newton also [REDACTED]
[REDACTED]. TRIALCARD_00008594; see also TRIAL-
CARD_00008354.

Amber Maldonado, Director, Immunology, played a key role in detecting and mit-
igating the alleged effects of maximizers and accumulators. JJHCS 00006991,
JJHCS 00005061. Internally, [REDACTED]
[REDACTED] TRIALCARD 00006499, and [REDACTED]
[REDACTED] TRIALCARD 00006511. Because Maldonado [REDACTED]
[REDACTED], she is highly likely to have
unique and relevant information. See, e.g., TRIALCARD_00006511.

Cosimo Cambi, Analytics Consultant, was tasked with analyzing relevant data.
Cambi was [REDACTED]
[REDACTED] TRIALCARD 00000334. He was also [REDACTED]
[REDACTED] Jan 17, 2023 JJHCS's
Resps. to SaveOnSP's Frist Interrogatories at 15. Critically, [REDACTED]

Sara Arrow
December 8, 2023

[REDACTED] See, e.g., TRIALCARD_00003079; TRIALCARD_00002656. His communications and files are therefore likely to contain data relevant to this litigation, including information about how SaveOnSP actually impacted Care-Path.

We ask that you please respond by December 15, 2023.

Sincerely,

Hannah Miles
Associate

Exhibit 5 Confidential

Filed Under Seal

Exhibit 6



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Admitted in New York
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October 7, 2024

VIA E-Mail

Hon. Freda L. Wolfson, U.S.D.J. (ret.)
Lowenstein Sandler LLP
One Lowenstein Drive
Roseland, New Jersey 07068

Re: *Johnson & Johnson Health Care Systems, Inc. v. Save On SP, LLC*
No. 2:22-cv-02632 (JKS) (CLW)

Dear Judge Wolfson:

On behalf of Save On SP, LLC (“SaveOn”), we write in advance of the parties’ October 11, 2024 conference to provide an update regarding Johnson & Johnson Health Care Systems, Inc.’s (“JJHCS,” and, with its affiliates, “J&J”) production of documents from TrialCard Inc. (“TrialCard”).

In April 2024, SaveOn moved to compel J&J to produce (1) “refresh” documents from July 1, 2022 to November 7, 2023 from four TrialCard employees from whom TrialCard had already produced documents prior to July 1, 2022 (the “Original TrialCard Custodians”); and (2) documents regarding J&J’s CAP program from both the Original TrialCard Custodians and

also additional TrialCard employees who worked on that program (the “New TrialCard Custodians”). SaveOn’s Apr. 19, 2024 Mot. to Compel, at 1. Your Honor granted that motion, holding that J&J had “legal control” over the requested documents, and that “the requested discovery is relevant as the documents at issue relate to the creation and implementation of the CAP Program, and benefits investigations into whether patients were on SaveOnSP programs.” May 28, 2024 Order at 10.

Your Honor asked the parties at the July 15, 2024 conference if the TrialCard issue had been “resolved.” July 15, 2024 Tr. at 134:22. J&J said that it had “made that request [for CAP documents] from TrialCard, and we’re waiting to hear from TrialCard, and I think we have been keeping counsel notified through letters and back-and-forth.” *Id.* at 135:13-16. Your Honor said: “[S]ooner, rather than later, let’s figure out if this is still going to be [an] issue[] that we need to bring to a head, just to move things along, and let me know.” *Id.* at 135:21-24.

Consistent with Your Honor’s guidance, SaveOn provides the following update.

On August 29, 2024, three months after Your Honor’s ruling, J&J produced the “refresh” production from the Original TrialCard Custodians. Ex. 1 (Aug. 29, 2024 Ltr.). This portion of SaveOn’s motion to compel is now resolved.

To date, however, J&J has not produced any documents from the New TrialCard Custodians, has not told SaveOn that it has run the requested additional CAP-related searches for the Original TrialCard Custodian or obtained the requested documents regarding the CAP program from TrialCard, and has not provided accurate hit counts of the documents identified by SaveOn’s proposed search terms, which would be necessary for the parties to negotiate those proposals. SaveOn proposed search terms and custodians for that production on May 24, 2024, Ex. 2 (May 24, 2024 Ltr.), and met and conferred with J&J on June 4, 2024, Ex. 3 (June 6, 2024 Ltr.). On

July 12, 2024, J&J said that it had “asked TrialCard to collect the documents of the eight additional TrialCard custodians [SaveOn] identified, and ... asked TrialCard to provide hit counts.” Ex. 4 (July 12, 2024 Ltr.); *see also* Ex. 5 (August 5-19, 2024 email correspondence).

On August 22, 2024, J&J provided hit counts of documents identified by SaveOn’s proposed terms which it obtained from TrialCard, but these counts were incomplete and inaccurate. Ex. 6 (Aug. 22, 2024 Ltr.).¹ SaveOn promptly brought these issues to J&J’s attention and again asked J&J for accurate and complete hit counts. Ex. 7 (Aug. 28, 2024 Ltr.). J&J provided information in response to one of SaveOn’s questions² and said that it would ask TrialCard to provide the requested hit counts. Ex. 8 (Sept. 6, 2024 Ltr.); *see also* Ex. 9 (Sept. 12, 2024 Ltr.); Ex. 10

¹ According to J&J, TrialCard did not gather all the requested custodians’ documents before running SaveOn’s proposed search terms; it rather used “collection terms” apparently intended to ensure that all collected documents would be within J&J legal control. *See* Ex. 6. This process, which J&J did not disclose to SaveOn beforehand, caused delays, as the purported collection terms were patently insufficient (excluding the names of most Janssen Drugs at issue and references to J&J’s CAP Program) and so would exclude numerous documents within J&J’s control. J&J caused further delays by failing to ask TrialCard to provide the custodians’ documents to J&J so that J&J could run proposed search terms over the documents directly; instead, J&J has left the documents in TrialCard’s possession and claims that it can only obtain hit counts via “requests” to TrialCard.

The hit counts that TrialCard and J&J provided to SaveOn contain other clear defects. *First*, TrialCard did not collect documents from all requested custodians; it gathered documents from the New TrialCard Custodians but not the Original TrialCard Custodians, even though the Original TrialCard Custodians also worked on the CAP program. *Second*, TrialCard did not run all SaveOn’s proposed terms over the documents it collected; it rather added additional “limiters” to many of those terms—as a result, running narrowed search terms that SaveOn did not actually propose. *Finally*, TrialCard did not provide deduplicated hit counts, which account for documents identified by multiple search terms—it provided only duplicated counts, inflating the number of identified documents. *See* Ex. 7 (Aug. 28, 2024 Ltr.) (explaining these defects).

² J&J originally claimed that running SaveOn’s proposed search terms—with the limiters TrialCard that unilaterally added—over the documents that TrialCard collected identified over 41,000 documents. When SaveOn pointed out that this figure did not appear to be de-duplicated, J&J reported that the accurate count was only 16,722 documents, including families. *See* Ex. 8 (Sept. 6, 2024 Ltr.).

(Sept. 20, 2024 Ltr.). Over a month after SaveOn's request, J&J has still not provided SaveOn with the results of those searches.

It is now October 2024, yet the parties have not even agreed on a search protocol to identify the documents that Your Honor compelled J&J to produce in May 2024. SaveOn has been hamstrung by J&J's long delays in providing relevant information. If J&J does not provide the information that SaveOn requested, agree to a reasonable search protocol to identify the documents SaveOn seeks, and agree to a date certain by which it will produce these documents in the next few weeks, SaveOn intends to seek Your Honor's intervention.

SaveOn appreciates Your Honor's attention to this matter.

Respectfully submitted,

/s/ E. Evans Wohlforth, Jr.

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Attorneys for Defendant Save On SP, LLC

Exhibit 7



November 4, 2024

Jacob I. Chefitz
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By Email

Hannah R. Miles, Esq.
Selendy Gay PLLC
1290 Avenue of the Americas
New York, NY 10104

**Re: Johnson & Johnson Health Care Systems, Inc. v. Save On SP, LLC,
2:22-cv-02632 (JKS) (CLW)**

Dear Hannah:

We write further to our October 23, 2024 letter regarding the additional TrialCard documents that SaveOnSP has requested from JJHCS.

Today, TrialCard responded to JJHCS's request for hit counts for the search terms that SaveOnSP has proposed. We attach TrialCard's response, including the hit counts that TrialCard provided, as Appendix A to this letter. Applying the point-of-collection limitation that SaveOnSP requested, *see* Sep. 20, 2024 Ltr. from J. Chefitz to H. Miles, TrialCard has reported that running SaveOnSP's requested search terms over its collection hits on 32,140 "unique search results" for the eight additional TrialCard custodians, plus another 3,936 unique search results for the four original TrialCard custodians. TrialCard has informed JJHCS that these unique search results are inclusive of full families,¹ and that there is no duplication across the 3,936 and 32,140 documents. The total number of unique search results, with families, is therefore 36,076.

These hit counts confirm that, as JJHCS has repeatedly stated, the search terms that SaveOnSP has proposed for these TrialCard custodians are too broad and would require the review of an unduly burdensome amount of documents. We therefore again request—as we have long requested—that SaveOnSP propose more narrowly tailored search terms for these TrialCard custodians.

¹ TrialCard has further informed JJHCS that, not counting families, the unique search hits are 18,159 and 1,044 for the eight additional custodians and four original custodians, respectively, totaling 19,203 unique documents.

Hannah R. Miles, Esq.
November 4, 2024
Page 2

JJHCS reserves all rights, and we are available to meet and confer.

Very truly yours,

/s/ Jacob I. Chefitz
Jacob I. Chefitz

APPENDIX A

**SMITH, ANDERSON, BLOUNT,
DORSETT, MITCHELL & JERNIGAN, L.L.P.**

LAWYERS

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November 4, 2024

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Via Email

Jacob I. Chefitz
Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas
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jchefitz@pbwt.com

Re: Johnson & Johnson Health Care Systems, Inc.'s ("JJHCS") Request Under Section 17 of the Amended and Restated Master Services Agreement Between JJHCS and Mercalis Inc. dated January 1, 2024 (the "MSA")

Dear Jacob:

I am writing in response to your August 22, 2024, September 6, 2024, and September 20, 2024 letters on behalf of JJHCS requesting that Mercalis Inc. (formerly known as TrialCard Incorporated) (i) expand the scope of its initial custodian collection search, which was previously described in its August 16, 2024 letter to you, to include the names of 17 additional Janssen drugs and the terms "CAPm" and "CAPa" (raised in your September 6 and September 20 letters); (ii) provide hit counts for searches 8 through 15 requested in your July 12, 2024 letter after running those search terms over the original four TrialCard custodians (raised in your September 6 letter); and (iii) run the search terms listed in your July 12, 2024 letter without alterations (raised in your September 20 letter).

As explained in our August 16, 2024 letter, the MSA does not contemplate or require running search terms or providing hit counts. That said, to assist JJHCS in assessing the breadth and burden of discovery sought in JJHCS's lawsuit against Save On SP, LLC, Mercalis had voluntarily collected additional documents from the four original custodians and eight additional custodians at issue, has run searches against that collection, and is providing hit counts for those searches as outlined below.

JJHCS's requests ask Mercalis to collect documents, run searches, and provide hit counts across twelve custodians over a more than seven-and-a-half year period. Additionally, a number of the search strings you provided in your July 12, 2024 letter did not contain any terms limiting their scope to documents related to JJHCS's engagement with Mercalis. In light of the breadth of

SMITH, ANDERSON, BLOUNT, DORSETT, MITCHELL, & JERNIGAN, L.L.P.

Mr. Jacob I. Chefitz
November 4, 2024
Page 2

the request, and to limit the collection to documents related to JJHCS's engagement with Mercalis, we used the following updated initial search to collect documents from the custodians for the period April 1, 2016 through November 7, 2023:

"Johnson & Johnson" OR "Johnson and Johnson" OR J&J OR JnJ OR JJHCS OR Janssen OR CarePath OR "Care Path" OR STELARA* OR TREMFYA* OR Balversa OR Darzalex OR Edurant OR Erleada OR Imbruvica OR Intelence OR Opsumit OR Ponvory OR Prezcobix OR Remicade OR Rybrevant OR Simponi OR Symtuza OR Tracleer OR Upravi OR Ventavis OR Zytiga OR CAPm OR CAPa

This initial search includes the 17 additional Janssen drugs that you requested we add and the terms "CAPm" and "CAPa."

We then ran the search terms provided in your July 12, 2024 letter with a few minor corrections to address apparent syntax errors. The one exception was Search No. 10, which we did not run because it is a subset of, and entirely subsumed within, Search No. 1. I have enclosed two spreadsheets that contains the specific search strings we used and the hit counts they returned (both with and without families). The first spreadsheet is for the four original custodians (Holly Weischedel, Sini Abraham, Paul Esterline, and Rick Fry), and the hit counts do not include items that were previously produced by Mercalis in connection with the JJHCS/SaveOn litigation. The second spreadsheet is for the eight additional custodians (Jason Zemcik, Rick Ford, April Harrison, Tommy Gooch, Lynsi Newton, Amber Maldonado, Cosimo Cambi, and Tony McInnis). If you have any questions about the search methodology or hit counts, please let me know.

Please note that while Mercalis is voluntarily providing these hit counts, it does not concede that JJHCS is necessarily entitled to inspect or obtain the documents reflected in those hit counts and reserves its rights with respect to any future requests that JJHCS may make under the MSA or otherwise.

Sincerely,

A handwritten signature in black ink, appearing to read "Isaac A. Linnartz", with a stylized flourish at the end.

Isaac A. Linnartz

Enclosures

Search #	Search Terms	Hits (with families)	Hits (no families)
8	(CAPa OR CAPm OR "adjustment program") AND (SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP OR accumulat* OR maximiz*)	882	289
9	("essential health benefit*" OR EHB* OR "non-essential health benefit" OR "nonessential health benefit*" OR NEHB*) w/50 (CAPa OR CAPm OR "adjustment program" OR accumulat* OR maximiz*)	73	28
11	"save on" w/50 (accumulat* OR maximiz* OR "essential health benefit*" OR EHB* OR "non-essential health benefit*" OR "nonessential health benefit*" OR NEHB* OR accredo OR ESI OR "express scripts")	111	34
12	"other offer" w/5 (accumulat* OR maximiz*)	0	0
13	("Express Scripts" OR ESI OR ExpressScripts) w/50 (accumulat* OR maximiz*)	558	222
14	(Accredo OR Acredo) w/50 (accumulat* OR maximiz*)	333	82
15	(STELARA* OR TREMFYA* OR CarePath OR JCP OR "Savings Program") w/25 (6000 OR 6,000 OR limit OR eliminate)	2802	602
Custodians: Holly Weischedel, Sini Abraham, Paul Esterline, and Rick Fry			
Unique Search Results: 3,936			

Search #	Search Terms	Hits (with families)	Hits (no families)
1	SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP	9377	3098
2	("Johnson & Johnson" OR "Johnson and Johnson" OR J&J OR JnJ OR JJHCS OR Janssen) AND (SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP OR "org* chart" OR "retention policy")	9104	2846
3	(CarePath OR "Care Path") AND (SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP OR "org* chart" OR "retention policy")	8430	2344
4	(Accumulator OR Maximizer) AND (SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP OR "org* chart" OR "retention policy")	4149	1500
5	("Johnson & Johnson" OR "Johnson and Johnson" OR J&J OR JnJ OR JJHCS OR Janssen) AND (CarePath w/5 "term* and condition**")	1606	616
6	(Accumulator OR Maximizer OR SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP) w/10 (Care Path AND (Stelara OR Tremfya) AND (limit OR eliminat*))	0	0
7	("Johnson & Johnson" OR "Johnson and Johnson" OR J&J OR JnJ OR JJHCS OR Janssen) AND (enroll w/5 CarePath) AND contact*	2487	974
8	(CAPa OR CAPm OR "adjustment program") AND (SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP OR accumulat* OR maximiz*)	13529	10215
9	("essential health benefit*" OR EHB* OR "non-essential health benefit" OR "nonessential health benefit*" OR NEHB*) w/50 (CAPa OR CAPm OR "adjustment program" OR accumulat* OR maximiz*)	364	168
11	"save on" w/50 (accumulat* OR maximiz* OR "essential health benefit*" OR EHB* OR "non-essential health benefit*" OR "nonessential health benefit*" OR NEHB* OR accredo OR ESI OR "express scripts")	405	136
12	"other offer" w/5 (accumulat* OR maximiz*)	0	0
13	("Express Scripts" OR ESI OR ExpressScripts) w/50 (accumulat* OR maximiz*)	1871	720
14	(Accredo OR Acredo) w/50 (accumulat* OR maximiz*)	1967	854
15	(STELARA* OR TREMFYA* OR CarePath OR JCP OR "Savings Program") w/25 (6000 OR 6,000 OR limit OR eliminate)	13434	5297
Custodians: Jason Zemcik, Rick Ford, April Harrison, Tommy Gooch, Lynsi Newton, Amber Maldonado, Cosimo Cambi, and Tony McInnis			
Unique Search Results: 32,140			

Exhibit 8



November 19, 2024

Jacob I. Chefitz
(212) 336-2474

By Email

Hannah R. Miles, Esq.
Selendy Gay PLLC
1290 Avenue of the Americas
New York, NY 10104

**Re: Johnson & Johnson Health Care Systems, Inc. v. Save On SP, LLC,
2:22-cv-02632 (JKS) (CLW)**

Dear Hannah:

We write further to our November 14, 2024 letter regarding the additional TrialCard documents that SaveOnSP has requested from JJHCS.

Yesterday, TrialCard informed JJHCS that, due to a processing error, the hit counts that TrialCard provided on November 13, 2024 did not include hits on the documents of custodian Sini Abraham. TrialCard has told JJHCS that it has corrected the issue, and TrialCard has provided JJHCS with the attached, updated hit counts. The updated hit counts are unchanged with respect to the eight additional TrialCard custodians but have increased to 4,636 unique search results for the four original TrialCard custodians, increasing the total number of unique search results, with families, to 33,365.

Given that the hit counts have only increased, JJHCS maintains its burden objections, as stated in JJHCS's November 14, 2024 letter. As also stated in that letter, JJHCS is willing to consider further narrowed search parameters.

JJHCS reserves all rights, and we remain available to meet and confer.

Very truly yours,

/s/ Jacob I. Chefitz

Jacob I. Chefitz

Search #	Search Terms	Hits (with families)	Hits (no families)
8	(CAPa OR CAPm OR "adjustment program") w/50 (SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP OR accumulat* OR maximiz*)	1180	288
9	("essential health benefit*" OR EHB* OR "non-essential health benefit" OR "nonessential health benefit*" OR NEHB*) w/50 (CAPa OR CAPm OR "adjustment program" OR accumulat* OR maximiz*)	79	31
11	"save on" w/50 (accumulat* OR maximiz* OR "essential health benefit*" OR EHB* OR "non-essential health benefit*" OR "nonessential health benefit*" OR NEHB* OR accredo OR ESI OR "express scripts")	120	40
12	"other offer" w/25 (accumulat* OR maximiz*)	0	0
13	("Express Scripts" OR ESI OR ExpressScripts) w/25 (accumulat* OR maximiz*)	485	185
14	(Accredo OR Acredo) w/25 (accumulat* OR maximiz*)	155	58
15	(STELARA* OR TREMFYA* OR CarePath OR JCP OR "Savings Program") w/15 (6000 OR 6,000 OR limit OR eliminate)	3210	832
Custodians: Holly Weischedel, Sini Abraham, Paul Esterline, and Rick Fry			
Unique Search Results: 4,636			

Search #	Search Terms	Hits (with families)	Hits (no families)
1	SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP	9377	3098
5	("Johnson & Johnson" OR "Johnson and Johnson" OR J&J OR JnJ OR JJHCS OR Janssen) AND (CarePath w/5 "term* and condition*")	1606	616
7	("Johnson & Johnson" OR "Johnson and Johnson" OR J&J OR JnJ OR JJHCS OR Janssen) AND (enroll w/5 CarePath) AND contact*	2487	974
8	(CAPa OR CAPm OR "adjustment program") w/50 (SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP OR accumulat* OR maximiz*)	11830	9036
9	("essential health benefit*" OR EHB* OR "non-essential health benefit" OR "nonessential health benefit*" OR NEHB*) w/50 (CAPa OR CAPm OR "adjustment program" OR accumulat* OR maximiz*)	364	168
11	"save on" w/50 (accumulat* OR maximiz* OR "essential health benefit*" OR EHB* OR "non-essential health benefit*" OR "nonessential health benefit*" OR NEHB* OR accredo OR ESI OR "express scripts")	405	136
12	"other offer" w/25 (accumulat* OR maximiz*)	0	0
13	("Express Scripts" OR ESI OR ExpressScripts) w/25 (accumulat* OR maximiz*)	1539	547
14	(Accredo OR Acredo) w/25 (accumulat* OR maximiz*)	1615	687
15	(STELARA* OR TREMFYA* OR CarePath OR JCP OR "Savings Program") w/15 (6000 OR 6,000 OR limit OR eliminate)	10142	3799
Custodians: Jason Zemcik, Rick Ford, April Harrison, Tommy Gooch, Lynsi Newton, Amber Maldonado, Cosimo Cambi, and Tony McInnis			
Unique Search Results: 28,729			

Search Number	Hits by Custodian											
	Newton	McInnis	Harrison	Zemcik	Gooch	Maldonado	Cambi	Ford	Weischedel	Abraham	Esterline	Fry
Search 1 (Families)	4590	1546	1243	749	668	345	165	71	N/A	N/A	N/A	N/A
Search 1 (Without Families)	1214	521	375	466	217	182	81	42	N/A	N/A	N/A	N/A
Search 5 (Families)	344	199	707	0	303	53	0	0	N/A	N/A	N/A	N/A
Search 5 (Without Families)	145	82	244	0	133	12	0	0	N/A	N/A	N/A	N/A
Search 7 (Families)	899	452	418	6	430	226	45	11	N/A	N/A	N/A	N/A
Search 7 (Without Families)	323	177	146	2	196	103	21	6	N/A	N/A	N/A	N/A
Search 8 (Families)	1196	7783	256	259	568	1634	19	115	328	645	31	176
Search 8 (Without Families)	1010	6532	166	78	336	838	7	69	83	125	16	64
Search 9 (Families)	51	28	5	149	12	37	6	76	6	6	33	34
Search 9 (Without Families)	27	22	2	53	5	22	1	36	6	3	12	10
Search 11 (Families)	18	121	17	209	5	11	13	11	61	9	31	19
Search 11 (Without Families)	10	39	6	62	1	7	4	7	16	6	9	9
Search 12 (Families)	0	0	0	0	0	0	0	0	0	0	0	0
Search 12 (Without Families)	0	0	0	0	0	0	0	0	0	0	0	0
Search 13 (Families)	27	492	23	350	73	437	30	107	93	6	171	215
Search 13 (Without Families)	11	208	9	120	11	111	19	58	21	2	53	109
Search 14 (Families)	16	800	4	169	64	502	16	44	24	15	23	93
Search 14 (Without Families)	7	394	2	81	17	167	7	12	6	8	10	34
Search 15 (Families)	4654	1542	2151	322	779	548	97	49	2080	992	66	72
Search 15 (Without Families)	1332	1081	551	179	380	190	47	39	428	344	22	38

Exhibit 9



December 13, 2024

Jacob I. Chefitz
(212) 336-2474

By Email

Hannah R. Miles, Esq.
Selendy Gay PLLC
1290 Avenue of the Americas
New York, NY 10104

**Re: Johnson & Johnson Health Care Systems, Inc. v. Save On SP, LLC,
2:22-cv-02632 (JKS) (CLW)**

Dear Hannah:

We write in response to your December 6, 2024 letter regarding the additional TrialCard documents that SaveOnSP has requested from JJHCS.

JJHCS cannot agree to the search terms demanded in SaveOnSP's letter. Those terms hit on almost 26,000 unique documents, family inclusive, and it would be unduly burdensome for JJHCS to review such a high volume of additional TrialCard documents. SaveOnSP tries to justify that volume by pointing to the average documents per custodian. But that average is irrelevant to the burden that SaveOnSP's request imposes on JJHCS, which, ultimately, will still need to review all the documents hitting on these search terms. SaveOnSP cites JJHCS's motion to add Jenna Quinn as a custodian, but there, Judge Wolfson ruled that 2,524 documents is not an unduly burdensome volume of documents for this case. *See* Nov. 21, 2024 Order at 4. That is not at all comparable to SaveOnSP's demand here, which seeks documents from twelve TrialCard custodians totaling nearly 26,000 documents.

JJHCS is willing to work with SaveOnSP to either narrow the custodian list or narrow the search terms. But JJHCS cannot agree to SaveOnSP's current demand.

JJHCS reserves all rights, and we remain available to meet and confer.

Very truly yours,

/s/ Jacob I. Chefitz

Jacob I. Chefitz

Exhibit 10



September 20, 2024

Jacob I. Chefitz
(212) 336-2474

By Email

Hannah R. Miles, Esq.
Selendy Gay PLLC
1290 Avenue of the Americas
New York, NY 10104

**Re: Johnson & Johnson Health Care Systems, Inc. v. Save On SP, LLC,
2:22-cv-02632 (JKS) (CLW)**

Dear Hannah:

On behalf of JJHCS, we write in response to SaveOnSP's September 12, 2024 letter regarding the additional TrialCard documents that SaveOnSP has requested from JJHCS.

We have asked TrialCard to expand its point of collection limitation to include the additional Janssen drug names requested in your letter, specifically:

“Johnson & Johnson” OR “Johnson and Johnson” OR J&J OR JnJ OR JJHCS OR Janssen OR CarePath OR “Care Path” OR STELARA* OR TREMFYA OR Balversa OR Darzalex OR Edurant OR Erleada OR Imbruvica OR Intelence OR Opsumit OR Ponvory OR Prezcobix OR Remicade OR Rybrevant OR Simponi OR Symtuza OR Tracleer OR Upravi OR Ventavis OR Zytiga OR CAPm OR CAPa

In your letter, you also ask that JJHCS “provide hit counts for SaveOn’s requested search terms without alterations.” We have asked that TrialCard provide such hit counts.

We reserve all rights and are available to meet and confer.

Very truly yours,

/s/ Jacob I. Chefitz

Jacob I. Chefitz

Exhibit 11

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Hannah R. Miles

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September 12, 2024

Via E-mail

Jacob I. Chefitz

Patterson Belknap Webb & Tyler LLP

1133 Avenue of the Americas

New York, NY 10036

jchefitz@pbwt.com

Re: *Johnson & Johnson Health Care Systems Inc. v. Save On SP, LLC* (Case No. 2:22-cv-02632-JKS-CLW)

Dear Jacob,

We write in response to J&J's September 6, 2024 letter regarding SaveOn's requests for TrialCard documents within J&J's control.

First, thank you for agreeing to expand the requested point-of-collection limitation for TrialCard to use to collect J&J-related documents. The search term that J&J proposed appears to be missing some of the Janssen drugs at issue in this case. SaveOn requests that J&J revise the term to include them, as follows:

- "Johnson & Johnson" OR "Johnson and Johnson" OR J&J OR JnJ OR JJHCS OR Janssen OR CarePath OR "Care Path" OR STELARA* OR TREMFYA OR Balversa OR Darzalex OR **Edurant** OR Erleada OR Imbruvica OR **Intelligence** OR Opsumit OR **Ponvory** OR **Prezcobix** OR Remicade OR Rybrevant OR Simponi OR **Symtuza** OR Tracleer OR Uptravi OR **Ventavis** OR Zytiga OR CAPm OR CAPa

Second, thank you for agreeing to seek hit counts for SaveOn's proposed search terms for the four original TrialCard custodians as well as the eight additional TrialCard custodians that SaveOn has identified.

Third, we appreciate the corrected, de-duplicated hit counts indicating that all of SaveOn's requested search terms, as altered by TrialCard, would yield 16,722 unique documents for review, family inclusive. Please also provide hit counts for SaveOn's requested search terms without alterations.

Jacob I. Chefitz
September 12, 2024

We reserve all rights and are available to meet and confer. We request a response by September 19, 2024.

Sincerely,

/s/ Hannah Miles

Hannah R. Miles
Associate

Exhibit 12

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Selendy|Gay

Hannah R. Miles
Associate
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October 7, 2024

Via E-mail

Jacob I. Chefitz
Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas
New York, NY 10036
jchefitz@pbwt.com

Re: *Johnson & Johnson Health Care Systems Inc. v. Save On SP, LLC* (Case No. 2:22-cv-02632-JKS-CLW)

Dear Jacob,

We write in response to your November 4, 2024 Letter regarding J&J's production of documents from TrialCard.

Thank you for providing the requested hit counts for SaveOn's search terms, proposed May 24, 2024. Please see the attached appendix for SaveOn's revised proposed search terms. If J&J continues to object on the basis of burden to any particular search term, please provide revised hit counts, broken down by term within the string, and by custodian. Please also provide the total number of documents that J&J would be required to review, de-duplicated, for the revised search terms.

Sincerely,

/s/ Hannah Miles

Hannah R. Miles
Associate

Appendix 1

- **Collection Term:** “Johnson & Johnson” OR “Johnson and Johnson” OR J&J OR JnJ OR JJHCS OR Janssen OR CarePath OR “Care Path” OR STELARA* OR TREMFYA* OR Balversa OR Darzalex OR Edurant OR Erleada OR Imbruvica OR Intelence OR Opsumit OR Ponvory OR Prezcobix OR Remicade OR Rybrevant OR Simponi OR Symtuza OR Tracleer OR Uptravi OR Ventavis OR Zytiga OR CAPm OR CAPa
- **Custodians:**
 - All terms: Jason Zemcik, Rick Ford, April Harrison, Tommy Gooch, Lynsi Newton, Amber Maldonado, Cosimo Cambi, and Tony McInnis
 - Terms 8-15 only: Holly Weischedel, Sini Abraham, Paul Esterline, and Rick Fry

Search #	Original Search Term	Proposed Revised Search Term
1	SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP	SaveOn proposes no alterations to this search term.
2	(“Johnson & Johnson” OR “Johnson and Johnson” OR J&J OR JnJ OR JJHCS OR Janssen) AND (SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP OR “org* chart” OR “retention policy”)	SaveOn proposes to drop this search term.
3	(CarePath OR “Care Path”) AND (SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP OR “org* chart” OR “retention policy”)	SaveOn proposes to drop this search term.
4	(Accumulator OR Maximizer) AND (SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP OR “org* chart” OR “retention policy”)	SaveOn proposes to drop this search term.
5	(“Johnson & Johnson” OR “Johnson and Johnson” OR J&J OR JnJ OR JJHCS OR Janssen) AND (CarePath w/5 “term* and condition”)	SaveOn proposes no alterations to this search term.
6	(Accumulator OR Maximizer OR SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP) w/10 (Care Path AND (Stelara OR Tremfya) AND (limit OR eliminat*))	SaveOn proposes to drop this search term.
7	(“Johnson & Johnson” OR “Johnson and Johnson” OR J&J OR JnJ OR JJHCS OR Janssen) AND (enroll w/5 CarePath) AND contact*	SaveOn proposes no alterations to this search term.
8	(CAPa OR CAPm OR “adjustment program”) AND (SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP OR accumulat* OR maximiz*)	(CAPa OR CAPm OR “adjustment program”) w/50 (SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP OR accumulat* OR maximiz*)
9	(“essential health benefit*” OR EHB* OR “non-essential health benefit” OR “nonessential health benefit*” OR NEHB*) w/50 (CAPa OR CAPm OR “adjustment program” OR accumulat* OR maximiz*)	SaveOn proposes no alterations to this search term.
10	“Save On” (<i>case sensitive</i>)	SaveOn proposes to drop this search term.
11	“save on” w/50 (accumulat* OR maximiz* OR “essential health benefit*” OR EHB* OR “non-essential health benefit*” OR “nonessential health benefit*” OR NEHB* OR accredo OR ESI OR “express scripts”)	SaveOn proposes no alterations to this search term.
12	“other offer” w/5 (accumulat* OR maximiz*)	“other offer” w/25 (accumulat* OR maximiz*)
13	(“Express Scripts” OR ESI OR ExpressScripts) w/50 (accumulat* OR maximiz*)	(“Express Scripts” OR ESI OR ExpressScripts) w/25 (accumulat* OR maximiz*)
14	(Accredo OR Acredo) w/50 (accumulat* OR maximiz*)	(Accredo OR Acredo) w/25 (accumulat* OR maximiz*)
15	(STELARA* OR TREMFYA* OR CarePath OR JCP OR “Savings Program”) w/25 (6000 OR 6,000 OR limit OR eliminate)	(STELARA* OR TREMFYA* OR CarePath OR JCP OR “Savings Program”) w/15 (6000 OR 6,000 OR limit OR eliminate)

Exhibit 13

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Hannah R. Miles

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November 21, 2024

Via E-mail

Jacob I. Chefitz

Patterson Belknap Webb & Tyler LLP

1133 Avenue of the Americas

New York, NY 10036

jchefitz@pbwt.com

Re: *Johnson & Johnson Health Care Systems Inc. v. Save On SP, LLC* (Case No. 2:22-cv-02632-JKS-CLW)

Dear Jacob,

We write in response to your November 14 and November 19, 2024 letters regarding J&J's production of documents from TrialCard.

Thank you for providing the requested hit counts for the search terms that SaveOn proposed on November 7, 2024. To further facilitate the parties' negotiations, and reserving all rights, please provide hit counts for the below amended search terms.

- Search No. 8: (CAPa OR CAPm OR "adjustment program") ~~w/50~~ **w/25** (SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP OR accumulat* OR maximiz*)
- Search No. 15: (STELARA* OR TREMFYA* OR CarePath OR JCP OR "Savings Program") w/15 (6000 OR 6,000 OR limit OR eliminate) **w/50 (OOP OR "out of pocket" OR "out-of-pocket" OR ((maximum* OR max*) w/5 (benefit* OR offer* OR pay*))**

If J&J continues to object on the basis of burden to Search No. 15, please provide hit counts broken down by term, and by custodian. Please also provide the total number of documents that J&J would be required to review, de-duplicated, for the revised search terms.

Jacob I. Chefitz
November 21, 2024

We request a response by December 2, 2024. We reserve all rights and are available to meet and confer.

Sincerely,

/s/ Hannah Miles

Hannah R. Miles
Associate

Exhibit 14

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December 6, 2024

Via E-mail

Jacob I. Chefitz

Patterson Belknap Webb & Tyler LLP

1133 Avenue of the Americas

New York, NY 10036

jchefitz@pbwt.com

Re: *Johnson & Johnson Health Care Systems Inc. v. Save On SP, LLC* (Case No. 2:22-cv-02632-JKS-CLW)

Dear Jacob,

We write in response to your December 4, 2024 letter regarding search terms for J&J's production of documents from TrialCard.

Thank you for providing hit counts for SaveOn's proposed revised Search No. 8 and Search No. 15. Based on the parties' correspondence, we understand that running the ten search terms for the eight additional custodians (Zemcik, Ford, Harrison, Gooch, Newton, Maldonado, Cambi, and McInnis) would require review of 23,606 documents. Running the seven search terms for the four existing custodians (Weischedel, Abraham, Esterline, and Fry) would require review of 2,382 additional documents.

For the new custodians, the total document count averages to approximately 2,950 documents per custodian. For the existing custodians, the total document count averages out to approximately 600 documents per custodian. That is well in line with the parties' practices. For example, when J&J moved to compel SaveOn to add Jenna Quinn as a custodian, Judge Wolfson stated that the "2,524 documents [J&J's search term would require SaveOn to review] ... in the world of this case, that's not a tremendous amount, as we know." Nov. 18, 2024 Tr. at 37:2-7 ("I don't think on the burden argument it survives."); *see also id.* at 41:21-25 (ordering SaveOn to add Quinn as a custodian because of "the limited number" of documents for review). SaveOn thus disagrees that these hit counts are unduly burdensome or disproportionate, particularly given the importance of the work that these custodians did for J&J.

Jacob I. Chefitz
December 6, 2024

If J&J does not agree to run these search terms by December 13, 2024, we will therefore consider the parties at impasse. We reserve all rights and are available to meet and confer.

Sincerely,

/s/ Hannah Miles

Hannah R. Miles
Associate

**Exhibits 15-23 Confidential
Filed Under Seal**

Exhibit 24

Jeffrey J. Greenbaum, Esq.
Katherine M. Lieb, Esq.
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*Attorneys for Plaintiff Johnson & Johnson Health Care
Systems Inc.*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JOHNSON & JOHNSON HEALTH CARE
SYSTEMS INC.,

Plaintiff,

v.

SAVE ON SP, LLC,

Defendant.

Civil Action No. 22-2632 (JMV) (CLW)

**PLAINTIFF JOHNSON & JOHNSON
HEALTH CARE SYSTEMS INC.'S
RESPONSES AND OBJECTIONS TO
DEFENDANT SAVE ON SP, LLC'S
FIRST SET OF INTERROGATORIES**

GENERAL OBJECTIONS

Johnson and Johnson Health Care Systems, Inc. (“JJHCS”) incorporates each of the General Objections below into its specific objections to each Interrogatory, whether or not each such General Objection is expressly referred to in JJHCS’s objections to a specific Interrogatory. JJHCS’s investigation of facts related to this Action is ongoing. It reserves the right to supplement, amend, modify, or correct its responses under Rule 26(e) should it discover additional information or grounds for objections at any time prior to the conclusion of this Action. The following responses and objections are based upon information known at this time.

1. JJHCS objects to the Interrogatories to the extent that they seek material or information protected from disclosure by a privilege including, without limitation, the attorney-client privilege, the work-product doctrine, the joint defense privilege, the common interest privilege, the First Amendment privilege, or any privilege recognized by the Federal Rules of Civil Procedure, the Local Rules of the Court, and/or relevant case law.

2. JJHCS objects to the Interrogatories to the extent that they seek information that is not relevant to a claim or defense or to the subject matter of this litigation. Any response JJHCS makes to any Interrogatory shall not be deemed an admission that the response, information, document, or thing produced is relevant to a claim or defense or to the subject matter of this litigation, is reasonably calculated to lead to the discovery of admissible evidence, is material, or is admissible as evidence.

3. JJHCS objects to the Interrogatories to the extent that they are vague and/or ambiguous.

4. JJHCS objects to the Interrogatories to the extent that they require interpretation or legal analysis by JJHCS in providing a response. JJHCS responds to the Interrogatories as it interprets and understands each Interrogatory as set forth. If SaveOnSP subsequently asserts an

interpretation of any Interrogatory that differs from JJHCS's understanding of that Interrogatory, JJHCS reserves the right to modify or supplement its objections and responses.

5. JJHCS objects to the Interrogatories to the extent that they are duplicative of document requests, other interrogatories, and/or other discovery requests.

6. JJHCS objects to the Interrogatories to the extent that they are argumentative, lack foundation, or incorporate assertions that are disputed, erroneous, or irrelevant to the Action. JJHCS further objects to the Interrogatories to the extent that they assume facts that do not exist or the occurrence of events that did not take place.

7. JJHCS objects to the Interrogatories to the extent that they seek information relating to any business affairs other than those that are the subject of the Action.

8. JJHCS objects to the Interrogatories to the extent that they seek information that is not in JJHCS's possession, custody, or control.

OBJECTIONS TO DEFINITIONS

1. JJHCS objects to the definition of the term "Janssen" to the extent the term is used to seek information in the possession of entities other than JJHCS. JJHCS further objects to the definition as overbroad, unduly burdensome, and not proportional to the needs of the case to the extent it purports to include "any and all predecessors and successors in interest, assignees, parents, subsidiaries, affiliates, divisions or departments, agents, representatives, directors, officers, employees, committees, attorneys, accountants and all persons or entities acting or purporting to act on behalf" of those entities.

2. JJHCS objects to the definition of the term "Janssen Drug" as irrelevant to the extent it purports to include drugs that are not covered by CarePath. JJHCS further objects to the definition as overbroad, unduly burdensome, and not proportional to the needs of the case to the extent it includes "any Specialty Drug manufactured or sold by Janssen from any time."

3. JJHCS objects to the definition of the term “JJHCS” to the extent it purports to include attorneys, accountants, or others who may be outside of JJHCS’s control. JJHCS further objects to the definition as overbroad, unduly burdensome, and not proportional to the needs of the case to extent it purports to include “any and all predecessors and successors in interest, assignees, parents, subsidiaries, affiliates, . . . agents, [or] representatives” or purports to include entities and persons acting or purporting to act on behalf of or under the control of entities other than Johnson & Johnson Healthcare Systems, Inc.

4. JJHCS objects to the definition of the term “JJHCS Hub Entity” as vague and as irrelevant to the extent it purports to include entities other than those within JJHCS responsible for administering CarePath from January 1, 2017 to the present. JJHCS further objects to the definition as overbroad, unduly burdensome, and not proportional to the needs of the case to the extent it includes “any and all predecessors and successors in interest, assignees, parents, subsidiaries, affiliates, divisions or departments, agents, representatives, directors, officers, employees, committees, attorneys, accountants and all persons or entities acting or purporting to act on behalf’ of those entities. JJHCS further objects on the ground that the phrase “administer, in whole or in part, CarePath” is vague and ambiguous. JJHCS further objects to the extent the term is used to seek information in the possession of entities other than JJHCS.

5. JJHCS objects to the definition of the term “Lash Group” as overbroad, unduly burdensome, and not proportional to the needs of the case to the extent it includes “any and all predecessors and successors in interest, assignees, parents, subsidiaries, affiliates, divisions or departments, agents, representatives, directors, officers, employees, committees, attorneys, accountants and all persons or entities acting or purporting to act on behalf or under the control

of The Lash Group, Inc.” JJHCS further objects to the extent the term is used to seek information in the possession of entities other than JJHCS.

6. JJHCS objects to the definition of the term “TrialCard” as overbroad, unduly burdensome, and not proportional to the needs of the case to the extent it includes “any and all predecessors and successors in interest, assignees, parents, subsidiaries, affiliates, divisions or departments, agents, representatives, directors, officers, employees, committees, attorneys, accountants and all persons or entities acting or purporting to act on behalf or under the control of TrialCard Inc.” JJHCS further objects to the extent the term is used to seek information in the possession of entities other than JJHCS.

OBJECTIONS TO THE TIME PERIOD

1. JJHCS objects to SaveOnSP’s Interrogatories as overbroad, unduly burdensome, and not relevant to the subject matter of this Action to the extent they call for documents from before January 1, 2017. Unless otherwise noted, JJHCS will only provide information from January 1, 2017 through July 1, 2022 (the “Time Period”).

RESPONSES TO INTERROGATORIES

Interrogatory No. 1

Identify each person who participated in or had responsibility for communications with patients or health plans, including any communications between CarePath Care Coordinators or JJHCS Hub Entities and patients, from January 1, 2009 through the present.

Response:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]

[REDACTED]

[REDACTED]

- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]

[REDACTED]

[REDACTED]

- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

[REDACTED]

[REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Interrogatory No. 2

Identify each person who participated in or had responsibility for the marketing of CarePath or other communications with the public regarding CarePath, including those mentioning Copay Accumulator Services or Copay Maximizer Services, from January 1, 2009 through the present.

Response:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Interrogatory No. 3

Identify each person who participated in or had responsibility for drafting or revising CarePath's terms and conditions for each Janssen Drug, from January 1, 2009 through the present.

Response:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Interrogatory No. 4

Identify each person who participated in or had responsibility for analyzing price, revenue, cost, or other financial data for Janssen Drugs, as well as financial data for CarePath and other Copay Assistance Programs for Janssen Drugs, from January 1, 2009 through the present.

Response:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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| [REDACTED]

[REDACTED]

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| [REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

[REDACTED]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Interrogatory No. 5

Identify each person who participated in or had responsibility for JJHCS's attempts to identify health plans advised by SaveOnSP or patients enrolled in such plans.

Response:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery

Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Interrogatory No. 6

Identify each person who participated in or had responsibility for JJHCS's attempts to limit or eliminate the amount of CarePath copay assistance funds available to patients enrolled in health plans advised by SaveOnSP, including JJHCS's attempts to limit or eliminate the amount of CarePath copay assistance funds available to patients using Stelara or Tremfya.

Response:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Interrogatory No. 7

Identify each person who participated in or had responsibility for JJHCS's or any JJHCS Hub Entity's understanding of the terms "copay accumulator" and "copay maximizer."

Response:

[illegible]

JHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Dated: January 17, 2023

SILLS CUMMIS & GROSS P.C.
One Riverfront Plaza
Newark, New Jersey 07102
(973) 643-7000

By: /s/Jeffrey J. Greenbaum
JEFFREY J. GREENBAUM
KATHERINE M. LIEB

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Harry Sandick (admitted *pro hac vice*)
George LoBiondo
1133 Avenue of the Americas
New York, New York 10036
(212) 336-2000

Attorneys for Plaintiff
Johnson & Johnson Health Care Systems Inc.

CERTIFICATION

1. I am Senior Director of Supplier Management & Operations for the Patient Engagement & Customer Solutions group within JJHCS. I am authorized by JJHCS to execute these Responses to Interrogatories on its behalf.

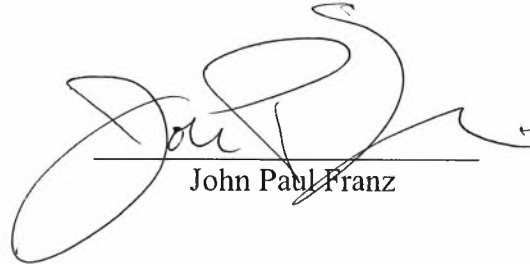
2. I have read the attached Responses to SaveOnSP's First Set of Interrogatories.

3. The Responses are based upon my personal knowledge, upon information supplied to me by others, and upon JJHCS's documents, books, and records.

4. As to Responses based upon my personal knowledge, they are true to the best of my knowledge. As to Responses based upon information supplied to me by others and upon JJHCS's documents, books, and records, I believe those answers to be true.

I certify that the foregoing is true and correct.

Dated: January 17, 2022
Piscataway, NJ



John Paul Franz

Exhibit 25

Jeffrey J. Greenbaum, Esq.
Katherine M. Lieb, Esq.
SILLS CUMMIS & GROSS, P.C.
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1133 Avenue of the Americas
New York, New York 10035

*Attorneys for Plaintiff Johnson & Johnson Health Care
Systems Inc.*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JOHNSON & JOHNSON HEALTH CARE
SYSTEMS INC.,

Plaintiff,

v.

SAVE ON SP, LLC,

Defendant.

Civil Action No. 22-2632 (JMV) (CLW)

**PLAINTIFF JOHNSON & JOHNSON
HEALTH CARE SYSTEMS INC.'S
SUPPLEMENTAL RESPONSES AND
OBJECTIONS TO DEFENDANT SAVE
ON SP, LLC'S FIRST SET OF
INTERROGATORIES**

Pursuant to the Court's November 7, 2023 Order, Johnson and Johnson Health Care Systems, Inc. ("JJHCS") submits these supplemental responses to Save On SP, LLC's ("SaveOnSP") First Set of Interrogatories (the "Interrogatories"). (*See* Dkt. No. 173.) JJHCS reserves the right to amend, modify, or supplement these responses.

GENERAL OBJECTIONS

JJHCS incorporates each of the General Objections below into its specific objections to each Interrogatory, whether or not each such General Objection is expressly referred to in JJHCS's objections to a specific Interrogatory. JJHCS's investigation of facts related to this Action is ongoing. It reserves the right to supplement, amend, modify, or correct its responses under Rule 26(e) should it discover additional information or grounds for objections at any time prior to the conclusion of this Action. The following responses and objections are based upon information known at this time.

1. JJHCS objects to the Interrogatories to the extent that they seek material or information protected from disclosure by a privilege including, without limitation, the attorney-client privilege, the work-product doctrine, the joint defense privilege, the common interest privilege, the First Amendment privilege, or any privilege recognized by the Federal Rules of Civil Procedure, the Local Rules of the Court, and/or relevant case law.

2. JJHCS objects to the Interrogatories to the extent that they seek information that is not relevant to a claim or defense or to the subject matter of this litigation. Any response JJHCS makes to any Interrogatory shall not be deemed an admission that the response, information, document, or thing produced is relevant to a claim or defense or to the subject matter of this litigation, is reasonably calculated to lead to the discovery of admissible evidence, is material, or is admissible as evidence.

3. JJHCS objects to the Interrogatories to the extent that they are vague and/or

ambiguous.

4. JJHCS objects to the Interrogatories to the extent that they require interpretation or legal analysis by JJHCS in providing a response. JJHCS responds to the Interrogatories as it interprets and understands each Interrogatory as set forth. If SaveOnSP subsequently asserts an interpretation of any Interrogatory that differs from JJHCS's understanding of that Interrogatory, JJHCS reserves the right to modify or supplement its objections and responses.

5. JJHCS objects to the Interrogatories to the extent that they are duplicative of document requests, other interrogatories, and/or other discovery requests.

6. JJHCS objects to the Interrogatories to the extent that they are argumentative, lack foundation, or incorporate assertions that are disputed, erroneous, or irrelevant to the Action. JJHCS further objects to the Interrogatories to the extent that they assume facts that do not exist or the occurrence of events that did not take place.

7. JJHCS objects to the Interrogatories to the extent that they seek information relating to any business affairs other than those that are the subject of the Action.

8. JJHCS objects to the Interrogatories to the extent that they seek information that is not in JJHCS's possession, custody, or control.

OBJECTIONS TO DEFINITIONS

1. JJHCS objects to the definition of the term "Janssen" as overbroad, unduly burdensome, and not proportional to the needs of the case to the extent it purports to include "any and all predecessors and successors in interest, assignees, parents, subsidiaries, affiliates, divisions or departments, agents, representatives, directors, officers, employees, committees, attorneys, accountants and all persons or entities acting or purporting to act on behalf" of those entities.

2. JJHCS objects to the definition of the term "Janssen Drug" as irrelevant to the

extent it purports to include drugs that are not covered by CarePath. JJHCS further objects to the definition as overbroad, unduly burdensome, and not proportional to the needs of the case to the extent it includes “any Specialty Drug manufactured or sold by Janssen from any time.”

3. JJHCS objects to the definition of the term “JJHCS” to the extent it purports to include attorneys, accountants, or others who may be outside of JJHCS’s control. JJHCS further objects to the definition as overbroad, unduly burdensome, and not proportional to the needs of the case to extent it purports to include “any and all predecessors and successors in interest, assignees, parents, subsidiaries, affiliates, . . . agents, [or] representatives” or purports to include entities and persons acting or purporting to act on behalf of or under the control of entities other than Johnson & Johnson Healthcare Systems, Inc.

4. JJHCS objects to the definition of the term “JJHCS Hub Entity” as vague and as irrelevant to the extent it purports to include entities other than those within JJHCS responsible for administering CarePath from January 1, 2017 to November 7, 2023. JJHCS further objects to the definition as overbroad, unduly burdensome, and not proportional to the needs of the case to the extent it includes “any and all predecessors and successors in interest, assignees, parents, subsidiaries, affiliates, divisions or departments, agents, representatives, directors, officers, employees, committees, attorneys, accountants and all persons or entities acting or purporting to act on behalf” of those entities. JJHCS further objects on the ground that the phrase “administer, in whole or in part, CarePath” is vague and ambiguous. JJHCS further objects to the extent the term is used to seek information in the possession of entities other than JJHCS.

5. JJHCS objects to the definition of the term “Lash Group” as overbroad, unduly burdensome, and not proportional to the needs of the case to the extent it includes “any and all predecessors and successors in interest, assignees, parents, subsidiaries, affiliates, divisions or

departments, agents, representatives, directors, officers, employees, committees, attorneys, accountants and all persons or entities acting or purporting to act on behalf or under the control of The Lash Group, Inc.” JJHCS further objects to the extent the term is used to seek information in the possession of entities other than JJHCS.

6. JJHCS objects to the definition of the term “TrialCard” as overbroad, unduly burdensome, and not proportional to the needs of the case to the extent it includes “any and all predecessors and successors in interest, assignees, parents, subsidiaries, affiliates, divisions or departments, agents, representatives, directors, officers, employees, committees, attorneys, accountants and all persons or entities acting or purporting to act on behalf or under the control of TrialCard Inc.” JJHCS further objects to the extent the term is used to seek information in the possession of entities other than JJHCS.

OBJECTIONS TO THE TIME PERIOD

1. JJHCS objects to SaveOnSP’s Interrogatories as overbroad, unduly burdensome, and not relevant to the subject matter of this Action to the extent they call for information from before April 1, 2016. Unless otherwise noted, JJHCS will only provide information from April 1, 2016 through November 7, 2023 (the “Time Period”).

RESPONSES TO INTERROGATORIES

Interrogatory No. 1

Identify each person who participated in or had responsibility for communications with patients or health plans, including any communications between CarePath Care Coordinators or JJHCS Hub Entities and patients, from January 1, 2009 through the present.

Response:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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- | [REDACTED]
- | [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Supplemental Response:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Supplemental Response Pursuant to the Court's November 7, 2023 Order:

[illegible]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Interrogatory No. 2

Identify each person who participated in or had responsibility for the marketing of CarePath or other communications with the public regarding CarePath, including those mentioning Copay Accumulator Services or Copay Maximizer Services, from January 1, 2009 through the present.

Response:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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I [REDACTED]

I [REDACTED]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Supplemental Response:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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- I [REDACTED]
- I [REDACTED]
- I [REDACTED]
- I [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Supplemental Response Pursuant to the Court's November 7, 2023 Order:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Interrogatory No. 3

Identify each person who participated in or had responsibility for drafting or revising CarePath's terms and conditions for each Janssen Drug, from January 1, 2009 through the present.

Response:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Supplemental Response:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

1. [REDACTED]

- [REDACTED]**

- _____

- [REDACTED]

- _____

JJHCS designates its response to this Interrogatory as Confidential under the Discovery

Interrogatory No. 4

Identify each person who participated in or had responsibility for analyzing price, revenue, cost, or other financial data for Janssen Drugs, as well as financial data for CarePath and other Copay Assistance Programs for Janssen Drugs, from January 1, 2009 through the present.

Response:

[illegible]

- I [REDACTED]
- I [REDACTED]
- I [REDACTED]
- I [REDACTED]
- I [REDACTED]
- I [REDACTED]
- I [REDACTED]
- I [REDACTED]
- I [REDACTED]
- I [REDACTED]
- I [REDACTED]

[REDACTED]

[REDACTED]

- I [REDACTED]
- I [REDACTED]
- I [REDACTED]
- I [REDACTED]
- I [REDACTED]
- I [REDACTED]
- I [REDACTED]
- I [REDACTED]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

[illegible]

[REDACTED]

[REDACTED]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Supplemental Response Pursuant to the Court's November 7, 2023 Order:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I [REDACTED]

I [REDACTED]

I [REDACTED]

I [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Interrogatory No. 5

Identify each person who participated in or had responsibility for JJHCS's attempts to identify health plans advised by SaveOnSP or patients enrolled in such plans.

Response:

[illegible]

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[REDACTED]

[REDACTED]

[REDACTED]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Supplemental Response:

[REDACTED]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Supplemental Response Pursuant to the Court's November 7, 2023 Order:

[illegible]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Interrogatory No. 6

Identify each person who participated in or had responsibility for JJHCS's attempts to limit or eliminate the amount of CarePath copay assistance funds available to patients enrolled in health plans advised by SaveOnSP, including JJHCS's attempts to limit or eliminate the amount of CarePath copay assistance funds available to patients using Stelara or Tremfya.

A series of horizontal black bars of varying lengths, some starting from the left edge and others indented, creating a pattern of redaction. The bars are solid black and vary in their starting and ending positions relative to the left and right margins of the page.

- [illegible]

[REDACTED]

[REDACTED]

[REDACTED]

I [REDACTED]

I [REDACTED]

I [REDACTED]

I [REDACTED]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Supplemental Response:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

JJHCS designates its response to this Interrogatory as “ATTORNEYS’ EYES ONLY” under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Supplemental Response Pursuant to the Court’s November 7, 2023 Order:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- I [REDACTED]
- I [REDACTED]
- I [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery

Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Interrogatory No. 7

Identify each person who participated in or had responsibility for JJHCS's or any JJHCS Hub Entity's understanding of the terms "copay accumulator" and "copay maximizer."

Response:

A series of horizontal black bars of varying lengths, some starting from the left margin and others indented, creating a rhythmic, abstract pattern. The bars are arranged in a sequence that suggests a list or a series of related items, with some bars being significantly longer than others. The overall effect is one of organized chaos, with the bars creating a sense of movement and flow across the page.

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Supplemental Response:

[illegible]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Supplemental Response Pursuant to the Court's November 7, 2023 Order:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

JJHCS designates its response to this Interrogatory as Confidential under the Discovery Confidentiality Order, so-ordered November 22, 2022, ECF No. 62.

Dated: January 31, 2024

SILLS CUMMIS & GROSS P.C.
One Riverfront Plaza
Newark, New Jersey 07102
(973) 643-7000

By: /s/Jeffrey J. Greenbaum
JEFFREY J. GREENBAUM
KATHERINE M. LIEB

PATTERSON BELKNAP WEBB & TYLER LLP
Adeel A. Mangi
Harry Sandick (admitted *pro hac vice*)
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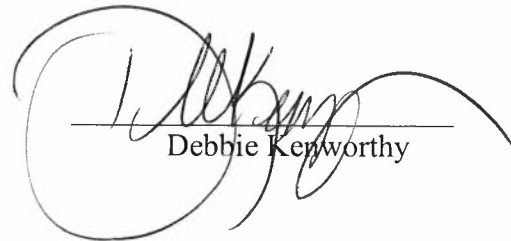
*Attorneys for Plaintiff Johnson & Johnson Health
Care Systems Inc.*

CERTIFICATION

1. I am authorized by JJHCS to execute these Responses to Interrogatories on its behalf.
2. I have read the attached Responses to SaveOnSP's First Set of Interrogatories dated January 31, 2024.
3. The Responses are based upon my personal knowledge, upon information supplied to me by others, and upon JJHCS's documents, books, and records.
4. As to Responses based upon my personal knowledge, they are true to the best of my knowledge. As to Responses based upon information supplied to me by others and upon JJHCS's documents, books, and records, I believe those answers to be true.

I certify that the foregoing is true and correct.

Dated: January 31, 2024



Debbie Kenworthy

Exhibit 26-81 Confidential

Filed Under Seal

Exhibit 82

Selendy Gay PLLC
1290 Avenue of the Americas
New York NY 10104
212.390.9000

Selendy|Gay

Hannah R. Miles
Associate
212.390.9055
hmiles@selendygay.com

June 28, 2024

Via E-mail

Jacob I. Chefitz
Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas
New York, NY 10036

Re: *Johnson & Johnson Health Care Systems Inc. v. Save On SP, LLC* (Case No. 2:22-cv-02632-JKS-CLW)

Dear Jacob,

We write in response to your June 17, 2024 letter regarding discovery of TrialCard documents controlled by J&J.

I. Custodians

In its May 24, 2024 Letter, SaveOn asked J&J to “identify and designate as custodians any individuals at TrialCard” who worked “identifying patients on accumulators, maximizers, and SaveOn-advised plans, including but not limited to the development, roll out, and operation of the CAP Program.” We proposed seven custodians to start: Jason Zemcik, Rick Ford, April Harrison, Tommy Gooch, Lynsi Newton, Amber Maldonado, and Cosimo Cambi. *See* May 24, 2024 Ltr. App’x 2. In its June 17, 2024 Letter, J&J agreed to add four—Zemcik, Gooch, Maldonado, and Cambi—if SaveOn agreed to drop its request for the other three—Ford, Harrison, and Newton. *See* June 17, 2024 Ltr. at 2. J&J contends that these three individuals “had minimal involvement in identifying, for JJHCS, patients on a SaveOnSP-advised plan, a maximizer plan, or an accumulator plan, and in the development and rollout of the CAP Program.” *Id.* J&J did not identify any other custodians who it believes were involved in such work.

There is ample evidence that Ford, Harrison, and Newton are appropriate custodians and are likely to have relevant documents in their files.

Rick Ford, Vice President of Market Access, was deeply involved in efforts by TrialCard to respond to SaveOn, accumulators, and maximizers. *See, e.g.,*

Jacob Chefitz
June 28, 2024

TRIALCARD_00001951-55 ([REDACTED]). Ford
was central to TrialCard's efforts to
[REDACTED]
[REDACTED]. TRIALCARD_00001811; *see also* TRIALCARD_00001966
[REDACTED]
[REDACTED]). Ford internally
[REDACTED]
[REDACTED] TRIAL-
CARD_00000348; *see also* TRIALCARD_00001881
[REDACTED]).

[REDACTED]
[REDACTED]. JJHCS_00000545; JJHCS_00003033.
[REDACTED]
JJHCS_00002727; *see also* JJHCS_00003009
[REDACTED]). Ford's
[REDACTED]
JJHCS_00011226. He also
[REDACTED] *Id.* Benefit Inves-
tigations are the core of what later became known as the CAP Program.
[REDACTED]
[REDACTED] JJHCS_00035426. On another occasion,
[REDACTED] JJHCS_00226673.

April Harrison, Associate Director of Client Services, played an integral
role in implementing J&J's CAP Program. [REDACTED]
[REDACTED], TRIALCARD
00002368, and
[REDACTED]
[REDACTED] TRIALCARD_00003951; *see also* TRIAL-
CARD_00003893.
[REDACTED] *See* JJHCS_00100230, at -259. [REDACTED]

Jacob Chefitz
June 28, 2024

CARD_00003760.

TRIAL-

TRIALCARD_00007218,

CARD_00007185,

TRIAL-

TRIAL-CARD_00007577.

JJHCS_00008800.

Id. at 6; *see also* JJHCS_00008766 (

).

JJHCS_00008771; *see also, e.g.*, JJHCS_00143619 (

).

, *see* JJHCS_00030204; JJHCS_00030295,

JJHCS_00104715.

Lynsi Newton, Program Manager, Immunology, was

CARD_00003951.

TRIAL-

See

JJHCS_00004607, JJHCS_00004608, JJHCS_00004611.

TRIALCARD_00008594; *see also* TRIAL-
CARD_00008354.

JJHCS_00259132. In addition,

Jacob Chefitz
June 28, 2024

[REDACTED] JJHCS_00259344; see also JJHCS_00259349.

We have also discovered new evidence that **Tony McInnis**, Escalation Manager, Immunology, is likely to have unique, responsive documents, and we request that J&J add him as a custodian. [REDACTED]

[REDACTED] See, e.g., JJHCS_00003307; JJHCS_00003312; JJHCS_00003328; JJHCS_00003341; JJHCS_00147164. [REDACTED]

[REDACTED] See, e.g., JJHCS_00156295; JJHCS_00258993; JJHCS_00259104; JJHCS_00259108; JJHCS_00259543. McInnis is likely to have documents and communications about the process of identifying patients as being on accumulators, maximizers, and SaveOn-advised plans. In particular, he is likely to have communications with other TrialCard employees, as well as external contacts, regarding patients who claim to have been improperly identified as on a maximizer, accumulator, or SaveOn-advised plan.

II. Search Terms

You object to many of the search terms that we proposed in our May 24, 2024 letter because they do not specifically mention J&J or CarePath “and thus sweep too broadly.” June 17, 2024 Ltr. at 3. Documents do not have to contain a specific reference to J&J to be relevant to TrialCard’s work for J&J. Search terms targeting relevant topics, like SaveOn, accumulators, maximizers, or the CAP Program, applied to the files of custodians who worked on J&J projects are likely to hit on relevant material. If some of these documents include information relevant to both J&J and to other clients, J&J must produce them. Please let us know if J&J will agree to run the search terms listed in Appendix 2 to SaveOn’s May 24, 2024 letter for all of the requested custodians.

J&J also claims that the only relevant documents in TrialCard’s possession are those “regarding (i) TrialCard’s work for JJHCS in identifying patients on accumulators, maximizers, and SaveOnSP-advised plans, and (ii) the development, roll out, and operation of the CAP Program.” June 17, 2024 Ltr. at 4. Not so. Because J&J has legal control over TrialCard’s documents related to its work for J&J, J&J is required to produce all such documents in TrialCard’s possession relevant to any of the requests for which J&J has generally agreed to produce documents.

Jacob Chefitz
June 28, 2024

We request a response by July 8, 2024. We are available to meet and confer.

Sincerely,

/s/ Hanh Miles

Hannah R. Miles
Associate

**Exhibits 83-92 Confidential
Filed Under Seal**

Exhibit 93



September 29, 2023

Katherine Brisson
(212) 336-2552

BY EMAIL

Emma Holland, Esq.
Selendy Gay Elsberg PLLC
1290 Avenue of the Americas
New York, NY 10104

**Re: *Johnson & Johnson Health Care Systems Inc. v. Save On SP, LLC,*
(Case No. 2:22-cv-02632-ES-CLW)**

Dear Emma:

We write on behalf of TrialCard in response to your September 20, 2023 letter, and further to our correspondence on the same topic.

Request Nos. 5, 20, 22, and 27. TrialCard will produce documents that are responsive to Request Nos. 5, 20, 22, and 27 and that hit on the search terms identified in our August 24 letter. *See* Aug. 24, 2023 Ltr. from K. Brisson to E. Holland at 2, n.1. These search terms were designed to yield documents responsive to these specific Requests. TrialCard will produce responsive, non-privileged documents that hit on these search terms whether or not they relate to benefits investigations; however, we otherwise decline to specifically search for, collect, and produce documents relating to benefits investigations.

Request No. 3. TrialCard agrees to produce case and task notes that are responsive to SaveOnSP's proposed search terms "zero out of pocket," "zero OOP," and "zero out-of-pocket." We trust that this resolves any remaining dispute on this issue.

Custodians. As we have explained at length, the four existing TrialCard custodians—Sini Abraham, Paul Esterline, Rick Fry, and Holly Weischedel—had operational and strategic responsibilities for the issues about which you have sought document production. During the relevant time period, Ms. Weischedel held multiple roles at TrialCard, including positions in Client Services and Strategic Accounts. Ms. Abraham has similarly held roles in Client Services, Market Access Operations, and Hub Services. Mr. Esterline has held various roles in Analytics and Strategic Accounts. And Mr. Fry has held roles in both Client Solutions and Client Services. Again, we encourage you to review the documents TrialCard produces from these four custodians to make an informed assessment about whether additional custodians are warranted.

Emma Holland, Esq.
September 29, 2023
Page 2

You nevertheless assert that additional custodians are required because the existing custodians “do not appear to be involved in communications with CarePath patients or tracking CarePath and copay assistance payments.” Sept. 20, 2023 Ltr. from E. Holland to K. Brisson at 2. This concern does not justify your expansive request. As you know, TrialCard has already produced over 19,000 call and task notes describing communications with CarePath patients, and we have agreed to supplement that production as described above. We have similarly produced CarePath claims and enrollment data. These productions, along with the custodial productions described above, adequately address the issues you have raised.

Further, we decline to provide hit counts for each of the twelve additional custodians you have proposed. As you know, TrialCard cannot simply run a hit report without first collecting the custodial files of all of SaveOnSP’s proposed custodians. This step is itself a burdensome and unnecessary undertaking for the reasons we have explained at length in our prior correspondence and herein. You also suggest that there is some “magical” number of documents—which you apparently believe to be greater than 37,000—that a third-party must review to satisfy its discovery obligations. Suffice it to say, we disagree (as do your business partners at Express Scripts, Inc. and Accredo Health Group, which have yet to make any custodial productions, aided in their efforts to avoid discovery by supporting affidavits from SaveOnSP counsel). Finally, we refer you to our prior correspondence on the issue of fees and costs.

Custodial Search Terms. TrialCard declines to add your proposed search terms as they are irrelevant to the requests for which TrialCard has agreed to produce custodial documents. As we have explained, TrialCard will not produce documents that generally relate to copay accumulator and maximizer programs, nor will it produce documents that mention Express Scripts or Accredo absent reference to SaveOnSP. See July 13, 2023 Ltr. from K. Brisson to E. Holland at 1 (“TrialCard agrees to search for and produce nonprivileged custodial documents expressly referencing SaveOnSP in response to Request Nos. 8, 9, 11, 12, 13, 14, and 15.”). Contrary to your assertion, TrialCard’s discovery obligations do not require it to undertake a large-scale substantive document review to determine whether a document “capture[s] discussions of SaveOnSP when it is not expressly mentioned.” Sept. 20, 2023 Ltr. from E. Holland to K. Brisson at 2. First of all, we do not see how this suggestion is even feasible, as it would require an exercise in mind-reading to know when someone is secretly referring to SaveOnSP. In any event, this proposal is disproportionate to TrialCard’s obligations as a third-party, and TrialCard will not undertake to do so.

As previously explained, we have produced all retention documents we have been able to identify based on a reasonable investigation for the applicable timeframe. We have added “retention policy” out of a good faith effort to satisfy any lingering concerns you may have but we are unwilling to adopt your proposed stand-alone “Retention Polic*” search term.

Finally, Request Nos. 18(i)-(m), which seek such information as the dates on which Patients were enrolled in CarePath, the amounts of co-pay assistance provided to those Patients, and the Janssen Drugs for which they received assistance, do not require a custodial production. These documents are centrally stored and those documents have been or will be produced, either

Emma Holland, Esq.
September 29, 2023
Page 3

by TrialCard, JJHCS, or both. As we have stated previously, to the extent the custodial files of Abraham, Esterline, Fry, and Weischedel include non-privileged documents responsive to Request Nos. 18(i)-(m), we will produce them. *See* July 13, 2023 Ltr. from K. Brisson to E. Holland at 1. We decline, however, to add new custodians or run additional search terms specific to this Request.

Very truly yours,

/s/ Katherine Brisson
Katherine Brisson

Exhibit 94



November 14, 2024

Jacob I. Chefitz
(212) 336-2474

By Email

Hannah R. Miles, Esq.
Selendy Gay PLLC
1290 Avenue of the Americas
New York, NY 10104

**Re: Johnson & Johnson Health Care Systems, Inc. v. Save On SP, LLC,
2:22-cv-02632 (JKS) (CLW)**

Dear Hannah:

We write in response to your November 7, 2024 letter regarding the additional TrialCard documents that SaveOnSP has requested from JJHCS.

On November 7, 2024, JJHCS requested that TrialCard provide hit counts for the revised search terms that SaveOnSP proposed in its letter of the same day. Yesterday, TrialCard provided the attached hit counts for those revised search terms. As those hit counts show, the revised search terms hit on 28,729 “unique search results” for the eight additional TrialCard custodians, plus another 3,013 unique search results for the four original TrialCard custodians. TrialCard has again informed JJHCS that there is no duplication across the 28,729 and 3,013 documents, bringing the total number of unique search results, with families, to 31,742. TrialCard has also provided a breakdown of the hit counts by custodian.¹

Those hit counts are still unacceptably high and would require the review of an unduly burdensome amount of documents. JJHCS is willing to consider further narrowed search parameters.

¹ SaveOnSP’s November 7, 2024 letter also requested that the hit counts be “broken down by term within the string.” While JJHCS made that request of TrialCard, TrialCard has not provided such broken down counts. JJHCS does not think that was unreasonable. SaveOnSP has proposed that TrialCard run ten unique search strings, many with several terms and connectors. It would be burdensome and disproportionate to provide disaggregated hit counts for each term within each of the ten search strings, particularly when TrialCard is providing the specific hit counts for each of the ten strings.

Hannah R. Miles, Esq.
November 14, 2024
Page 2

JJHCS reserves all rights, and we remain available to meet and confer.

Very truly yours,

/s/ Jacob I. Chefitz
Jacob I. Chefitz

Search #	Search Terms	Hits (with families)	Hits (no families)
8	(CAPa OR CAPm OR "adjustment program") w/50 (SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP OR accumulat* OR maximiz*)	535	163
9	("essential health benefit*" OR EHB* OR "non-essential health benefit" OR "nonessential health benefit*" OR NEHB*) w/50 (CAPa OR CAPm OR "adjustment program" OR accumulat* OR maximiz*)	73	28
11	"save on" w/50 (accumulat* OR maximiz* OR "essential health benefit*" OR EHB* OR "non-essential health benefit*" OR "nonessential health benefit*" OR NEHB* OR accredo OR ESI OR "express scripts")	111	34
12	"other offer" w/25 (accumulat* OR maximiz*)	0	0
13	("Express Scripts" OR ESI OR ExpressScripts) w/25 (accumulat* OR maximiz*)	479	183
14	(Accredo OR Acredo) w/25 (accumulat* OR maximiz*)	140	50
15	(STELARA* OR TREMFYA* OR CarePath OR JCP OR "Savings Program") w/15 (6000 OR 6,000 OR limit OR eliminate)	2218	488
Custodians: Holly Weischedel, Sini Abraham, Paul Esterline, and Rick Fry			
Unique Search Results: 3,013			

Search #	Search Terms	Hits (with families)	Hits (no families)
1	SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP	9377	3098
5	("Johnson & Johnson" OR "Johnson and Johnson" OR J&J OR JnJ OR JJHCS OR Janssen) AND (CarePath w/5 "term* and condition*")	1606	616
7	("Johnson & Johnson" OR "Johnson and Johnson" OR J&J OR JnJ OR JJHCS OR Janssen) AND (enroll w/5 CarePath) AND contact*	2487	974
8	(CAPa OR CAPm OR "adjustment program") w/50 (SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSP OR accumulat* OR maximiz*)	11830	9036
9	("essential health benefit*" OR EHB* OR "non-essential health benefit" OR "nonessential health benefit*" OR NEHB*) w/50 (CAPa OR CAPm OR "adjustment program" OR accumulat* OR maximiz*)	364	168
11	"save on" w/50 (accumulat* OR maximiz* OR "essential health benefit*" OR EHB* OR "non-essential health benefit*" OR "nonessential health benefit*" OR NEHB* OR accredo OR ESI OR "express scripts")	405	136
12	"other offer" w/25 (accumulat* OR maximiz*)	0	0
13	("Express Scripts" OR ESI OR ExpressScripts) w/25 (accumulat* OR maximiz*)	1539	547
14	(Accredo OR Acredo) w/25 (accumulat* OR maximiz*)	1615	687
15	(STELARA* OR TREMFYA* OR CarePath OR JCP OR "Savings Program") w/15 (6000 OR 6,000 OR limit OR eliminate)	10142	3799
Custodians: Jason Zemcik, Rick Ford, April Harrison, Tommy Gooch, Lynsi Newton, Amber Maldonado, Cosimo Cambi, and Tony McInnis			
Unique Search Results: 28,729			

Hit Points by Custodian
PageID 61571

Search Number	Hits by Custodian											
	Newton	McInnis	Harrison	Zemcik	Gooch	Maldonado	Cambi	Ford	Weischedel	Abraham	Esterline	Fry
Search 1 (Families)	4590	1546	1243	749	668	345	165	71	N/A	N/A	N/A	N/A
Search 1 (Without Families)	1214	521	375	466	217	182	81	42	N/A	N/A	N/A	N/A
Search 5 (Families)	344	199	707	0	303	53	0	0	N/A	N/A	N/A	N/A
Search 5 (Without Families)	145	82	244	0	133	12	0	0	N/A	N/A	N/A	N/A
Search 7 (Families)	899	452	418	6	430	226	45	11	N/A	N/A	N/A	N/A
Search 7 (Without Families)	323	177	146	2	196	103	21	6	N/A	N/A	N/A	N/A
Search 8 (Families)	1196	7783	256	259	568	1634	19	115	328	0	31	176
Search 8 (Without Families)	1010	6532	166	78	336	838	7	69	83	0	16	64
Search 9 (Families)	51	28	5	149	12	37	6	76	6	0	33	34
Search 9 (Without Families)	27	22	2	53	5	22	1	36	6	0	12	10
Search 11 (Families)	18	121	17	209	5	11	13	11	61	0	31	19
Search 11 (Without Families)	10	39	6	62	1	7	4	7	19	0	9	9
Search 12 (Families)	0	0	0	0	0	0	0	0	0	0	0	0
Search 12 (Without Families)	0	0	0	0	0	0	0	0	0	0	0	0
Search 13 (Families)	27	492	23	350	73	437	30	107	93	0	171	215
Search 13 (Without Families)	11	208	9	120	11	111	19	58	21	0	53	109
Search 14 (Families)	16	800	4	169	64	502	16	44	24	0	23	93
Search 14 (Without Families)	7	394	2	81	17	167	7	12	6	0	10	34
Search 15 (Families)	4654	1542	2151	322	779	548	97	49	2080	0	66	72
Search 15 (Without Families)	1332	1081	551	179	380	190	47	39	428	0	22	38

Exhibit 95



December 4, 2024

Jacob I. Chefitz
(212) 336-2474

By Email

Hannah R. Miles, Esq.
Selendy Gay PLLC
1290 Avenue of the Americas
New York, NY 10104

**Re: Johnson & Johnson Health Care Systems, Inc. v. Save On SP, LLC,
2:22-cv-02632 (JKS) (CLW)**

Dear Hannah:

We write in response to your November 21, 2024 letter regarding the additional TrialCard documents that SaveOnSP has requested from JJHCS.

In your November 21, 2024 letter, as modified by your November 27, 2024 email, SaveOnSP requested hit counts for the following two terms:

- Search No. 8: (CAPa OR CAPm OR “adjustment program”) w/25 (SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSp OR accumulat* OR maximiz*)
- Search No. 15: (STELARA* OR TREMFYA* OR CarePath OR JCP OR “Savings Program”) w/15 (6000 OR 6,000 OR limit OR eliminate) w/50 (OOP OR “out of pocket” OR “out-of-pocket” OR max* OR benefit* OR offer*)

TrialCard has informed JJHCS that those two search terms hit on 14,112 “unique search results” for the eight additional TrialCard custodians, plus another 1,916 unique search results for the four original TrialCard custodians. TrialCard has again informed JJHCS that there is no duplication across the 14,112 and 1,916 documents, bringing the total number of unique search results, with families, for these two terms to 16,028.

Your latest letter, however, does not provide SaveOnSP’s position with respect to the remaining eight terms requested in SaveOnSP’s prior letters, stating only that SaveOnSP “reserv[es] all rights” and requests revised hit counts for Search Nos. 8 and 15 “[t]o further facilitate the parties’ negotiations.” Nov. 21, 2024 Ltr. from H. Miles to J. Chefitz at 1. For the avoidance of doubt, JJHCS continues to object to Search Nos. 8 and 15 as unduly burdensome. JJHCS also maintains its burden objection over the remaining search terms not at issue in your November 21, 2024 letter. According to TrialCard, those search terms, when added to the modified Search Nos. 8 and 15, hit on 23,606 unique search results for the eight additional

Hannah R. Miles, Esq.
December 4, 2024
Page 2

TrialCard custodians, plus another 2,382 unique search results for the four original TrialCard custodians. JJHCS is, however, still willing to consider further narrowed search parameters.

JJHCS reserves all rights, and we remain available to meet and confer.

Very truly yours,

/s/ Jacob I. Chefitz
Jacob I. Chefitz

Exhibit 96



June 17, 2024

Jacob I. Chefitz
(212) 336-2474

By Email

Hannah R. Miles, Esq.
Selendy Gay PLLC
1290 Avenue of the Americas
New York, NY 10104

**Re: *Johnson & Johnson Health Care Systems, Inc. v. Save On SP, LLC,*
2:22-cv-02632 (JKS) (CLW)**

Dear Hannah:

On behalf of JJHCS, we write in response to your May 24, 2024 letter regarding discovery from TrialCard, and also in response to your June 6, 2024 letter regarding the parties' June 4, 2024 meet-and-confer related to your May 24, 2024 letter.

As an initial matter, we wish to advise you that TrialCard has informed JJHCS that it intends to retain new counsel to represent it in connection with this matter. We understand that TrialCard is in the process of engaging such counsel and as soon as this engagement is finalized, you will be provided with contact information for TrialCard's new counsel.

I. The "Refresh" Production for TrialCard Custodians

As explained during our meet-and-confer, we have asked TrialCard to produce documents from its four previously agreed upon custodians for the "refresh" period of July 1, 2022 to November 7, 2023, and we expect TrialCard to provide those documents. As you know, however, TrialCard is an independent entity, and because JJHCS does not have physical control of TrialCard's files, JJHCS must ultimately rely on TrialCard's cooperation. Given that TrialCard has chosen to obtain new counsel and is in the process of retaining counsel, JJHCS is therefore not currently able to provide an expected production date. We understand that TrialCard is working to collect the "refresh" materials and we will provide a further update as soon as we can.

You also asked whether the "refresh" production will bear JJHCS or TRIALCARD bates stamps. While JJHCS reserves the right to either produce these documents itself (with the documents bearing the JJHCS bates stamps) or direct TrialCard to make the production (with the documents bearing the TRIALCARD bates stamp), JJHCS anticipates that these documents will be produced with the TRIALCARD bates stamp.

Hannah R. Miles, Esq.
June 17, 2024
Page 2

II. The Additional TrialCard Discovery Requested by SaveOn

SaveOnSP requests that JJHCS “produce TrialCard’s custodial and noncustodial documents, from April 1, 2016 to November 3, 2023, regarding TrialCard’s work for J&J in identifying patients on accumulators, maximizers, and SaveOnSP-advised plans, including but not limited to the development, roll out, and operation of the CAP Program.”¹ As an initial matter and as SaveOnSP well knows, TrialCard has already produced thousands of such documents, including thousands of records of benefits investigations that TrialCard performed at JJHCS’s request to determine whether patients were in a SaveOnSP-advised plan, a maximizer plan, or an accumulator plan. *See* Mar. 12, 2024 Ltr. from S. Arrow to H. Miles at 1. It has also produced thousands of documents and communications that TrialCard has produced from its four agreed-upon TrialCard custodians. So SaveOnSP has already received a substantial production from TrialCard on the requested subject. And that is in addition to the many documents that JJHCS has produced reflecting communications between JJHCS and TrialCard, including communications relating to the CAP Program and benefits investigations.

Nonetheless, consistent with Judge Wolfson’s order and reserving the right to maintain any burden objections, JJHCS will request additional documents from TrialCard, subject to JJHCS’s and SaveOnSP’s agreement on custodians and search terms. We again reiterate that TrialCard is an independent entity over whose documents JJHCS does not have physical control, and that TrialCard is in the process of retaining new counsel. To the extent that JJHCS and SaveOnSP can agree on the relevant scope of these discovery requests, JJHCS will, as required by Judge Wolfson’s order, demand the relevant documents from TrialCard pursuant to the terms of JJHCS’s and TrialCard’s Master Services Agreement (“MSA”), a request that will be made to TrialCard’s new counsel.

Custodians

In Appendix 2 of your May 24, 2024 letter, you propose seven additional TrialCard custodians. TrialCard has long objected to adding those seven individuals as custodians. *See, e.g.*, Mar. 8, 2024 Ltr. from S. Arrow to H. Miles; Feb. 16, 2024 Ltr. from K. Brisson to H. Miles; Dec. 22, 2023 Ltr. from S. Arrow to H. Miles. JJHCS shares the objections that TrialCard has raised with respect to those custodians. While we reserve all relevance and burden objections, in an effort to resolve these disputes and move discovery forward, JJHCS can agree to ask TrialCard to add Jason Zemcik, Tommy Gooch, Amber Maldonado, and Cosimo Cambi as custodians if SaveOnSP agrees to drop its request to add Rick Ford, April Harrison, and Lynsi Newton as custodians. Based on our investigation to date, it appears that Ford, Harrison, and Newton had minimal involvement in identifying, for JJHCS, patients on a SaveOnSP-advised plan, a maximizer plan, or an accumulator plan, and in the development and rollout of the CAP Program. To the extent

¹ With respect to the date cutoff, we assume you meant November 7, 2023, consistent with the date range for discovery more generally in this case.

Hannah R. Miles, Esq.
June 17, 2024
Page 3

that those individuals have relevant documents, those documents would already be in the files of the other JJHCS and TrialCard custodians.

Search Terms

For the additional custodians, SaveOnSP has proposed seven “[p]reviously agreed to TrialCard search terms” and eight “CAP search terms.”

Of the seven “previously agreed to TrialCard search terms”—which, to be clear, were terms agreed to by TrialCard, not JJHCS—JJHCS is not willing to ask TrialCard to run the following two terms, which are untethered to JJHCS and thus sweep too broadly:

- SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP
- (Accumulator OR Maximizer) AND (SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP OR “org* chart” OR “retention policy”)

As for the following five terms JJHCS is willing, subject to agreement on custodians, to ask TrialCard to run hit counts to assess the burden associated with them:

- (“Johnson & Johnson” OR “Johnson and John-son” OR J&J OR JnJ OR JJHCS OR Janssen) AND (Save-OnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP OR “org* chart” OR “retention policy”)
- (CarePath OR “Care Path”) AND (SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP OR “org* chart” OR “retention policy”)
- (“Johnson & Johnson” OR “Johnson and Johnson” OR J&J OR JnJ OR JJHCS OR Janssen) AND (CarePath w/5 “term* and condition”)
- (Accumulator OR Maximizer OR SaveOnSP OR SaveOn OR “Save On SP” OR “Save On” OR SOSP) w/10 (Care-Path AND (Stelara OR Tremfya) AND (limit OR eliminat*))
- (“Johnson & Johnson” OR “Johnson and Johnson” OR J&J OR JnJ OR JJHCS OR Janssen) AND (enroll w/5 CarePath) AND contact*

Of the eight “CAP search terms,” JJHCS is willing, subject to agreement on custodians, to ask TrialCard to run hit counts to assess the burden associated with the following terms:

- (CAPa OR CAPm OR “adjustment program”) AND (Save-OnSP OR SaveOn OR “Save On SP” OR Save On” OR SOSP OR accumulat* OR maximiz*)

Hannah R. Miles, Esq.
June 17, 2024
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- (STELARA* OR TREMFYA* OR CarePath OR JCP OR “Savings Program”) w/25 (6000 OR 6,000 OR limit OR eliminate)

The remaining proposed “CAP search terms,” however, are all unacceptably overbroad for the purposes of identifying relevant documents from TrialCard. Specifically, they are not tailored to identifying documents regarding (i) TrialCard’s work for JJHCS in identifying patients on accumulators, maximizers, and SaveOnSP-advised plans, and (ii) the development, roll out, and operation of the CAP Program. Indeed, many of the terms would sweep in documents relating to TrialCard’s work for its many other clients.

Such documents are not only irrelevant to this lawsuit but also go beyond the scope of the audit provision in the MSA as construed by Judge Wolfson. For instance, the proposed term (“essential health benefit*” OR EHB* OR “non-essential health benefit” OR “nonessential health benefit*” OR NEHB*) w/50 (“CAPa” OR CAPm” OR “adjustment program” OR accumulat* OR maximiz*) will hit on every document that discusses essential or nonessential health benefits in the context of any accumulator or maximizer program, regardless of its connection to TrialCard’s work for JJHCS. Similarly, a term like (Accredo OR Acredo) w/50 (accumulat* OR maximiz*) is not only unlimited to JJHCS-specific work but also, given the loose w/50 connector, will include many irrelevant documents that simply mention Accredo’s name. Documents that do not relate to TrialCard’s work with JJHCS are outside the scope of the audit provision in the MSA, and JJHCS therefore does not accept search terms that deliberately seek such documents.

III. Call Recordings

Finally, in your May 24, 2024 letter, you requested that JJHCS “produce the approximately 1,500 call recordings in TrialCard’s possession that SaveOn previously requested from TrialCard.” As we have discussed, producing call recordings presents a burden to both sides, and we remain willing to negotiate an agreement on this issue. We have previously proposed two ways to alleviate SaveOn’s burden concerns, *see* May 7, 2024 Letter from E. Shane to H. Miles, and while you have told us that SaveOnSP is “continuing to investigate the feasibility and the burden associated with [JJHCS’s] request for call recordings,” our proposal remains on the table.

In any event, we disagree that JJHCS’s request for call recordings is “disproportionate” to SaveOnSP’s. To be clear, our position is not based on the mere fact that JJHCS is the plaintiff and SaveOnSP is the defendant, as you suggest in your June 6, 2024 letter. Rather, as we have repeatedly explained, SaveOnSP seeks from TrialCard call recordings that appear to relate to individuals enrolled in CarePath who are also on a SaveOnSP program. *See* May 7, 2024 Letter from E. Shane to H. Miles; Apr. 23, 2024 Letter from E. Shane to H. Miles. If SaveOnSP is entitled to such recordings, then JJHCS is entitled to the recordings that SaveOnSP possesses involving the same subject—*i.e.* calls with individuals enrolled in CarePath relating to SaveOnSP. *See* Apr. 23, 2024 Ltr. from E. Shane to H. Miles (explaining that the recordings that JJHCS seeks are “the conceptual equivalent of what SaveOnSP now seeks from TrialCard”). That JJHCS’s request is nominally larger simply reflects that SaveOnSP is the party that far more frequently communicated with individuals enrolled in CarePath about the SaveOnSP program.

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June 17, 2024

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We reserve all rights and are available to meet and confer.

Very truly yours,

/s/Jacob I. Chefitz

Jacob I. Chefitz

Exhibit 97-112 Confidential
Filed Under Seal

Exhibit 113



September 8, 2023

Katherine Brisson
(212) 336-2552

By Email

Emma Holland, Esq.
Selendy Gay Elsberg PLLC
1290 Avenue of the Americas
New York, NY 10104

Re: *Johnson & Johnson Healthcare Systems, Inc. v. Save On SP, LLC*
Case No. 2:22-cv-02632 (ES) (CLW)

Dear Emma:

On behalf of TrialCard, we write in response to your September 1, 2023 letter concerning TrialCard's response to the third-party subpoena served by SaveOnSP.

We have explained at length why we believe Requests Nos. 5, 20, 22 and 27 do not require additional collection and production of documents, and we refer you to our prior correspondence as appropriate. Nevertheless, in an effort to avoid a dispute, we are willing to produce custodial documents from the four existing TrialCard custodians (Abraham, Esterline, Fry, and Weischedel) in response to Requests Nos. 5, 20, 22 and 27 for the period April 1, 2016 through July 1, 2022,¹ provided that this fully resolves our dispute as to these Requests. Please let us know by September 13, 2023 whether you agree to this proposal.

Very truly yours,

/s/ Katherine Brisson
Katherine Brisson

¹ As you know, our existing search terms broadly capture documents containing variations of "SaveOnSP." To capture additional documents responsive to Requests Nos. 5, 20, 22 and 27, we will supplement the existing search terms with the following:

- ("Johnson & Johnson" OR "Johnson and Johnson" OR J&J OR JnJ OR JJHCS OR Janssen) AND (CarePath w/5 "term*" and condition*)
- (Accumulator OR Maximizer OR SaveOnSP OR SaveOn OR "Save On SP" OR "Save On" OR SOSp) w/10 (CarePath AND (Stelara OR Tremfya) AND (limit OR eliminat*))
- ("Johnson & Johnson" OR "Johnson and Johnson" OR J&J OR JnJ OR JJHCS OR Janssen) AND (enroll w/5 CarePath) AND contact*

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